

IN RE THE MEETING OF THE)

BAY-DELTA ADVISORY COUNCIL)

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ORIGINAL

TRANSCRIPT OF PROCEEDINGS

Sacramento Convention Center

13th & K Streets

Sacramento, California 95814

Friday, October 25, 1996 at 10:10 a.m.

REPORTED BY: THOMAS J. LANGE, RMR, CSR 4689

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BAY-DELTA ADVISORY COUNCIL

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MICHAEL MADIGAN, Chairman, California Water
Commission

TIB BELZA, Northern California Water
Commission

DON BRANSFORD, Glenn-Colusa Irrigation
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RICHARD IZMIRIAN, California Sportfishing
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LELAND LEHMAN, California Waterfowl
Association

PAT McCARTY, Delta Protection Commission

ROBERT MEACHER, Regional Council of Rural
Counties

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BAY-DELTA ADVISORY COUNCIL

Members (cont'd)

ANN NOTTHOFF, Natural Resources Defense
Council

PIETRO PARRAVANO, Pacific Coast Federation of
Fishermen's Association

STUART PYLE, Kern County Water Agency

BOB RAAB, Save San Francisco Bay Association

JUDITH REDMOND, Community Alliance with
Family Farmers

MARCIA SABLAN, City of Firebaugh

MARY SELKIRK, East Bay Municipal Utility
District

MIKE STEARNS, San Luis Delta Mendota Water
Authority

WAYNE WHITE, (for Roger Patterson)

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1 (All parties present, the following proceedings were
2 had at 10:10 a.m.:)

3 CHAIRMAN MADIGAN: Good morning, I
4 think we must be close to having a quorum here, so if
5 everybody will take their seats we will take a fast
6 check.

7 Good morning, Ladies and Gentlemen. This
8 is the October 25th meeting of the Bay-Delta Advisory
9 Council. This meeting was called, as some of you will
10 recall, last month, because we have a great many
11 things going on, and a number of you on the BDAC were
12 kind enough to make arrangements to attend today.

13 So while we will be a little bit short of a
14 full membership today, we will have sufficient number
15 of people to proceed both with a couple of the items
16 that we didn't deal with last month and some of the
17 questions that are on your agenda for today.

18 Let's see here. Marcia, welcome, nice to
19 see you. Thanks for joining us. Tell us the name of
20 your organization. We'll get it right in the minutes.

21 MS. BROCKBANK: San Francisco Estuary
22 Project and Bay Institute, a fine organization but I
23 don't happen to represent it.

24 MR. SNOW: Would you like to?

25 CHAIRMAN MADIGAN: Thanks, Marcia. And

5
1 welcome aboard.

2 MS. BROCKBANK: Thank you.

3 CHAIRMAN MADIGAN: Item No. 2 on the

4 agenda is -- Oh, and Wayne White is here today

5 representing Roger Patterson who is unable to be with

6 us. Wayne, thanks for joining us, nice to see you.

7 Our next item on the agenda, under the

8 agenda that you have is Steps in the Phase II Process.

9 Let me turn to Lester and ask him to go through that

10 with us.

11 (Discussion off the record)

12 MR. SNOW: Okay. I don't want to take

13 a whole lot of time on process, but we discussed

14 Phase II Process at our last meeting and we kind of

15 showed these parallel processes. And I think we had

16 three lines, and I guess as a bottom line it was kind

17 of confusing to people what the basic steps were that

18 we needed to go through in Phase II.

19 And so we've kind of regrouped and I just

20 have put this one up to refresh your memory of the

21 basic steps we had in Phase I and kind of how we kept

22 track of where we are at any given moment, recognizing

23 that in each of these steps, even in Phase I, there

24 was a lot of kind of sub-steps going on. But at least

25 we could kind of keep track of where we were headed.

7
1 So that's what happens in Step 2; you do

2 kind of a refinement of the alternative based on the

3 interaction between them.

4 The third step, then, is really looking at

5 the operations. How do you operate this system that

6 you've modified? And in looking at the operations you

7 end up getting a little more information about the

8 benefits and costs of the alternative, both in terms

9 of dollars as well as other kinds of benefits and

10 costs.

11 That really indicates kind of the

12 demarcation of the refinement modification, and then

13 you're fully into the more classic alternative

14 evaluation looking at the impacts under NEPA, under

15 see CEQA.

16 And in Step 4, doing that analysis, which

17 leads to Step 5, preparation of the draft programmatic

18 which we expect to have a draft preferred alternative

19 in, a lot of public comment and reaction moving to a

20 final programmatic and, again, hopefully a final

21 preferred alternative on to Phase III.

22 At the same time this is going on, we have

23 an effort of implementation strategy, which is the

24 preliminary assurances, the financial analysis, and

25 some pre-feasibility work that will need to be done to

6
1 And so we took basically the same concept

2 and said, how are we looking at Phase II. And you can

3 see it's -- everything is self-evident now. It's not

4 as confusing as it was last time.

5 Right, Ann?

6 Make a long story short. The alternatives

7 we developed in Phase I we ended up with the six

8 components, four of which are common to all the

9 programs. We had two variable components, storage and

10 conveyance, which we're finding really are not

11 separate components. It's almost like you have a

12 storage and conveyance component. They have comprised

13 the three basic alternatives.

14 The first step, the one that we have been

15 engaged in for the last two months is actually

16 refining those components, adding detail to each of

17 the common programs as well as the variable

18 components.

19 When we finish that, which we have not yet,

20 we then start looking in greater detail to the

21 interactions between these components. How do the

22 pieces fit together? How does the levee strategy fit

23 with the ecosystem restoration strategy? How does the

24 modification of conveyance and diversion points affect

25 ecosystem and vice versa.

8
1 kind of continue the fine-tuning process.

2 So that's kind of the basic step-wise

3 overview.

4 A number of you have raised questions about

5 adequate time to review these different components.

6 We are currently in the process of reevaluating our

7 schedule to make sure that there is sufficient time,

8 particularly in the Step 1/Step 2 range, to get review

9 of the products that we prepare. So we hope to come

10 back at the November meeting with some of the

11 assessment of our scheduling.

12 Kind of a -- perhaps oversimplified, but a

13 depiction of the BDAC activities as it would relate to

14 those six steps, we have as you know the work groups

15 working to refine the different components identifying

16 the policy issues and options and making

17 recommendations. That comes out of the work groups

18 back to BDAC for discussion, identifying, you know,

19 what needs to be elevated for overall evaluation and

20 deliberation by BDAC. Certainly BDAC will need to

21 make some broad assessment and provide advice as we

22 near the draft environmental impact statement, draft

23 preferred alternative.

24 Once we have that out on the street, we are

25 getting public response, again, BDAC will need to make

9
1 some assessment, provide some advice based on the
2 public reaction before we go to final.
3 So that's kind of a general overview of the
4 basic process we're utilizing for Phase II. And we
5 included a narrative of this in the packet and the
6 basic flow chart. And I'd be glad to respond to any
7 questions, questions by members of the BDAC.
8 CHAIRMAN MADIGAN: Bob, you had a
9 question regarding the schedule. Do you want to go
10 ahead and ask that now?
11 MR. RAAB: No.
12 CHAIRMAN MADIGAN: Ann?
13 MS. NOTTHOFF: I wanted to clarify that
14 I know yesterday in the ecosystem restoration
15 workshop, Lester, you talked about reevaluating the
16 schedule. And where that line is right now is I think
17 in the packet you gave us, that would put us into
18 March '97 where we would be up to Step 4.
19 In terms of planning and allocating
20 workloads, at this point I think it's very important
21 for the stakeholders to understand where you're going
22 to adjust Step 1 and 2, what are we looking at, is
23 there -- I think it's very important that the public
24 have enough time to fully analyze the core components
25 of the alternatives and also for CalFed staff to be

11
1 But we are not prepared today, we're still
2 kind of assessing the work that needs to be done, how
3 we're going to get it done. And so it won't be until
4 the next meeting that we have a revised -- a
5 completely revised schedule.
6 MS. NOTTHOFF: Yeah, I think it's
7 particularly important that there's enough time built
8 in there for CalFed staff to react to public comment
9 so that you can really have time to revise any
10 preferred alternatives you are going to go out there
11 with and reflect the public comment.
12 CHAIRMAN MADIGAN: Alex?
13 MR. HILDEBRAND: Alternatives two and
14 three are really not defined alternatives at this
15 point. They are merely sort of clusters of
16 alternatives, two -- No. 2 being those that don't have
17 an isolated facility, No. 3 being those that do.
18 Seems to me in order to really zero in on
19 those alternatives, we have to narrow them down to
20 what is really planned. And I'm not clear on where in
21 this process, and how in this process, you're going to
22 get down to an alternative that is really something
23 you can get your teeth in, rather than sort of a broad
24 range of possible alternatives.
25 MR. SNOW: Right. In terms of the

10
1 able to do a full technical analysis of those.
2 So I'm a little uncomfortable leaving it
3 for another month to find out where that adjustment is
4 going to take place. Is it going to -- are we looking
5 at moving that line further past March '97? Is that
6 what you're talking about?
7 MR. SNOW: Probably. And just we're
8 not prepared to put a hard date on it. But I think to
9 provide adequate time for review, there's probably two
10 places that you need to add time in. One is kind of
11 the Step 1/Step 2 area, somewhere in here you've got
12 more time to review and probably in this general area.
13 Even in our work now to try to come up
14 with a new schedule, we are not modifying the end
15 point; we are seeing if we can provide more review
16 time up here. It's our assessment that this isn't the
17 kind of program where you kind of take a shot in the
18 dark and throw a preferred alternative out on the
19 street. You better have it right when you're out in
20 draft. Right?
21 And so we need to make sure that we've got
22 adequate review before we go to draft, and then the
23 rest of the process will run smoother if we've done a
24 good job of getting everybody on board before we hit
25 the draft phase.

12
1 storage and conveyance components, we are in the
2 process of refining those now to accomplish what
3 you're suggesting, Alex, so that as we move into
4 Step 2 -- and it's not just two and three but actually
5 one also, that we have refined them so that it's clear
6 exactly what's being contemplated there.
7 Because you're right, what's in all three,
8 but particularly Alternative 2 and Alternative 3, it
9 encompasses quite a broad range of possibilities, so
10 there actually ends up being -- called them
11 sub-options within those alternatives. And that's
12 what we need to finish in Step 1.
13 MR. HILDEBRAND: Are those
14 sub-alternatives going to be brought to BDAC for
15 discussion?
16 MR. SNOW: Yes, and those will be --
17 MR. HILDEBRAND: When do you think that
18 would be?
19 MR. SNOW: -- out to public.
20 That's a good question. I don't know. I
21 don't know if we are ready to discuss those at the
22 November meeting or the meeting after that.
23 CHAIRMAN MADIGAN: Mike?
24 MR. STEARNS: Lester, I just wanted to
25 ask in the packet that we received where you have the

13
1 graph that's been laid out that the alternatives show
2 the common components, right on the top it says,
3 "water-use efficiency." Originally water-supply
4 reliability was that one component that I keep seeing.
5 This now is a replacement. I'm just curious. The
6 perception to me is that water-supply reliability is
7 now all based on water-use efficiency. Is that
8 correct or how do you feel?

9 MR. SNOW: No, actually, the -- I'm not
10 sure what was in the packet you're referring to. But
11 water-supply reliability is actually addressed in --
12 probably best to say all four of the common programs,
13 as well as variable components.

14 And so you get at the issue of water-supply
15 reliability through both water-use efficiency
16 component, the ecosystem component by reducing the
17 risk of shutdowns because of endangered species, the
18 levee or system stability by reducing the risk of
19 seismic loss of the system, and a little bit on water
20 quality also. Probably not as much but certainly
21 some. And then primarily on the storage and
22 conveyance components.

23 The changes that you make in the different
24 alternatives that we have in the storage and
25 conveyance have a dramatic impact on water supply,

15
1 table. And it would be no surprise, I'm sure, that
2 the changes in water supply will vary significantly
3 between the alternatives.

4 CHAIRMAN MADIGAN: Gary?

5 As speakers wish to address this group, let
6 me remind you that it is always helpful if you fill
7 out one of the speaker slips and give your name and
8 affiliation today for the benefit of the court
9 reporter.

10 MR. BOBKER: I'm probably one of the
11 primary people who don't do that, Mike.

12 CHAIRMAN MADIGAN: I know. I've heard
13 that. Other people have complained about that a lot.

14 MR. BOBKER: But you and I can rise
15 above that.

16 For the record, I'm Gary Bobker, with the
17 Bay Institute of San Francisco.

18 I just wanted to echo some things that --
19 or underscore some things that Lester was saying and
20 encourage some work in that direction, and that is the
21 reevaluation of the schedule.

22 You know, I'm glad to see that that issue
23 is being dealt with because I think all of us know,
24 all of us who are pretty heavily involved in CalFed
25 and who wish for the success of CalFed know that we

14
1 water-supply reliability. So that is probably the
2 single greatest component that affects water-supply
3 reliability, but it's limited unless you have the
4 other components to go with it.

5 MR. HILDEBRAND: The other question is
6 in regard to the new yield to be obtained, and I don't
7 think you can just categorize that in terms of
8 reservoir capacity because some reservoirs would
9 provide a lot more yield than others with the same
10 reservoir capacity.

11 But setting that aside, when do we address
12 the question of who is going to benefit from those
13 increased yields? To what will that new order be
14 applied?

15 MR. SNOW: I guess there's a couple
16 ways to answer that, but I think in terms of the
17 process we've laid out in Steps 3 and 4 is when you're
18 starting to get into detail about, you know, does the
19 alternative increase water supply, does it generate
20 yield, what are the costs of that, what are the
21 benefits, who are the beneficiaries, and then moving
22 on into the actual impact analysis.

23 So I hadn't thought of it just the way you
24 phrased the question, but probably in Steps 3 and 4 is
25 when you have that issue fully defined and on the

16
1 took a lot of time in Phase I, more time than some
2 people liked. But I think we got some pretty good end
3 results because the time was taken and because Lester
4 and the staff have encouraged a very open process and
5 taken a lot of input and adequately, you know,
6 addressed that input as appropriate.
7 And the concern that I think a number of
8 people have, although nobody really wants to be the
9 one to say so, is that Phase 2's schedule with
10 everything compressed so much, is actually not going
11 to allow us the same sort of perhaps sound process
12 that was typical of Phase I.

13 So I'm glad to see some thought about
14 revision of the schedule happens, and I'm glad to see
15 that revision seems to be aimed at the front end. I
16 think the important thing is not to wait until things
17 go too far down a track and then revise it later, but
18 to do it now. I think that's extremely important for
19 a number of reasons.

20 One Annie referred to earlier, and that's
21 just allowing adequate time for review by the public,
22 by stakeholders, and review of comments by the staff.
23 Right now there are so many work groups, so many
24 processes, so many things to track, that almost none
25 of us can give CalFed the time that the CalFed process

17

1 deserves, and that's something that we will pay for
2 later. So that's a concern that I know that Lester is
3 concerned about.

4 The other thing is that -- that's very
5 important about taking a look at the schedule in the
6 front end, is that right now is when we are laying the
7 foundation. We are identifying the common programs
8 that we built all the alternatives on. We're still
9 defining what the variables are among the
10 alternatives; we're looking at the assessment
11 methodologies. And in all of those there's a lot of
12 work to be done. There's a lot of concerns about how
13 you model the impacts, and we are far from having
14 agreement about the best ways to do those kinds of
15 assessments. That's going to take some time.

16 The ecosystem restoration component is, I
17 think, a very healthy one, but we need to define it
18 better. We need to put a little more flesh on that,
19 and that's going to take a while.

20 The water-use efficiency component, some of
21 us have concerns about whether it's complete enough.
22 So there's a lot of work to be done. And inevitably
23 the schedule is going to slip because of it, but we
24 can react after things fall apart or we can prevent
25 things from getting out of hand by allowing adequate

18

1 time now.

2 So I strongly encourage the staff to come
3 back to you with recommendations -- or with -- well, I
4 guess not recommendations to you, but recommendations
5 to the CalFed management group as to appropriate
6 revision of the schedule. And I know that the
7 environmental community would be happy to offer
8 comments on where we think more time is needed to get
9 defensible product.

10 Thank you, Mr. Chairman.

11 CHAIRMAN MADIGAN: Thank you.

12 Anybody else?

13 Yeah, Mary.

14 MS. SELKIRK: I just want to ditto some
15 of the comments that have been made prior, also it
16 became very clear in the ecosystem restoration work
17 group meeting yesterday that we are on an incredibly
18 tight timeline if there's going to be a draft program
19 on the street by March.

20 Dick Daniel yesterday was saying that there
21 will be a series of public technical workshops
22 regarding the ecosystem component and the target
23 development process between, essentially, I think,
24 sometime in mid-November through mid-January, with
25 some kind of draft document coming out at the end of

19

1 January.

2 So that doesn't leave us a lot of time, I
3 think, for there to be really substantive review both
4 by the work group and also by members of the public.
5 So if there's any way I think we can back off from
6 March of '97, I would really support that.

7 CHAIRMAN MADIGAN: Anybody else?

8 MR. SNOW: That's it for this agenda
9 item, then.

10 CHAIRMAN MADIGAN: All right. Well,
11 appreciate your presentations, appreciate all your
12 thoughts.

13 While Lester is wandering back over here,
14 let me remind everybody that the next BDAC meeting is
15 scheduled for Thursday, November 21, at the Burbank
16 Hilton, so that you all have that on your agenda.
17 Okay?

18 Yes, Mary?

19 MS. SELKIRK: I'd like at this point,
20 because I know we're going to be moving into the next
21 item on the agenda, to make a case for -- and I don't
22 know how this would work, but to make a case for
23 reversing the next two items because I think that it
24 would be helpful to any discussion here about water
25 transfers to have it follow on the BDAC having an

20

1 opportunity to discuss water efficiency, rather than
2 the other way around. It seems to me that there's --
3 sort of conceptually that it would be helpful to have
4 the second conversation first.

5 CHAIRMAN MADIGAN: Mr. Snow?

6 MR. SNOW: We probably can do it either
7 way. That's not intuitively obvious to me, it -- just
8 in the sense that there's -- what has happened at
9 previous BDAC meetings is a question of whether
10 transfers are good, period, within this program. And
11 so we have framed it as just a broad policy issue on
12 transfers, but we can handle it the other way.

13 MS. SELKIRK: Well, let me tell you my
14 reasoning. This actually didn't occur to me clearly
15 until I got a chance to carefully read your document
16 that you'd written on water-use efficiency and the
17 CalFed interest in developing a broader definition.

18 It seems to me that it would logically
19 flow, then, that instead of having a more or less kind
20 of ungrounded discussion, potentially ungrounded
21 discussion conceptually about water transfers, that it
22 might make sense -- I'm not wedded to this, I'm just
23 putting this out as an idea for the council.

24 CHAIRMAN MADIGAN: Well, there is
25 certainly a relationship there. It was a joke. Don't

21
1 worry about it.

2 (Laughter)

3 MS. SELKIRK: Well, the water transfers

4 can be considered as a tool for increasing water

5 efficiency. Now, maybe that's a particular bias I

6 have, but it seems to me...

7 CHAIRMAN MADIGAN: Okay. Rick, can you

8 take the first item?

9 MR. SOEHREN: As soon as I figure out

10 how this thing works.

11 MS. SELKIRK: I don't know if I'm the

12 only one who thinks that.

13 CHAIRMAN MADIGAN: Lester?

14 No, we are going to do it that way. We

15 are.

16 MS. SELKIRK: All right.

17 MR. SNOW: I would add as Rick is

18 getting wired -- have another cup of coffee, Rick --

19 that that makes sense because that's the context in

20 which BDAC has been discussing it.

21 I do want to point out, though, that the

22 issue of water transfers isn't just a water-use

23 efficiency issue in that it plays a big role in

24 water-supply reliability as simply the ability that

25 somebody could go out and through market transactions

23
1 supply as a reservoir for other purposes.

2 And the -- granted that the methods of

3 reallocation largely, but not entirely, involve water

4 sales of one kind or another, I think that we should

5 look at the basic issue first. And I've had no

6 response, either now or previously on my suggestion in

7 that regard.

8 CHAIRMAN MADIGAN: Well, you do now

9 because we are taking them in the order of which you

10 prefer.

11 MR. SOEHREN: Okay. The rule and scope

12 of water-use efficiency is on the agenda today because

13 the water-use efficiency work group has been looking

14 at this issue in a couple of different ways, first of

15 all in the traditional sense of efficiency, water

16 consumed to water applied, strict water conservation,

17 reduction of irrecoverable losses, that kind of thing.

18 But we've also been looking at water-use

19 efficiency more broadly in terms of achieving the

20 greatest benefit from each unit of water that we are

21 using. And this has seemed appropriate to us,

22 especially in the context of CalFed where we have a

23 broad charge and a broad array of objectives related

24 not only to water-supply reliability, but water

25 quality and ecosystem restoration.

22
1 increase the reliability of the water supply. It

2 does, when it's utilized in that fashion, provide an

3 incentive for implementation of water efficiency

4 practices. So it fits into a number of things.

5 And that's the point that Stuart has made a

6 number of times. It's not just water-use efficiency;

7 it has broader things. We certainly have talked about

8 it primarily in the context of water-use efficiency,

9 and we -- looks like Rick is ready to kind of discuss

10 it first from that perspective.

11 CHAIRMAN MADIGAN: Hold on a second,

12 Rick.

13 Alex?

14 MR. HILDEBRAND: Mike, you will recall

15 that more than two weeks ago I wrote to you and to

16 Lester also proposing that the order should be

17 changed.

18 CHAIRMAN MADIGAN: Yes.

19 MR. HILDEBRAND: My reasoning was

20 similar but not identical. It seemed to me that

21 before we talk about water transfers, which are a

22 method of water reallocation, that we ought to talk

23 about the basic issue of whether it's desirable to

24 reallocate water away from the production of food in

25 order to provide water -- use the agricultural water

24
1 More specifically, the work group has been

2 looking at these categories. So far we've been

3 looking in-depth at urban water conservation and ag

4 water-use efficiency. And these are expressed

5 differently because in the urban sector we find that

6 most of the opportunities are related to that strict

7 water conservation. Most of our urban areas are along

8 the coast, the discharges are to the ocean. If we use

9 less water, then we don't have discharges to a salt

10 sink, in this case the ocean.

11 These types of opportunities for strict

12 water conservation exist in the ag sector, too, but

13 there are a lot of other opportunities as well. And

14 some of these opportunities are actually touched upon

15 in the AB 3616 process, where we are looking at water

16 conservation.

17 But in the net benefit analysis methodology

18 of AB 3616, the ag MOU process, there is a section for

19 looking at the impacts of implementing efficient water

20 management practices, the impact of changing the way

21 that water is managed in terms of environmental

22 impacts, effects on water quality, on stream flow, and

23 so forth.

24 So we've taken in the work group a broader

25 view of water-use efficiency in terms of yielding the

25

1 greatest benefit from each unit of water, whether it's
2 water quality, ecosystem quality, or water-supply
3 reliability, the most traditional interpretation.

4 And in the work group we've had some
5 examples of the way this can work. Rice growers have
6 done an excellent job changing the way they manage
7 water to increase environmental benefits and reduce
8 the impacts that they have. In other words,
9 increasing the benefit from each unit of water and
10 helping to meet a lot of the CalFed objectives,
11 whether they are reliability, water quality,
12 environmental restoration.

13 At this point, I'd like to kind of
14 backtrack to an overhead that we used last month when
15 we started talking about the work that the work group
16 was engaged in. We have been developing objectives
17 for each of the categories for urban, for ag, so
18 forth, and we found that there was a lot of overlap in
19 those objectives.

20 We want to try and emphasize market
21 mechanisms, overregulatory mechanisms, preserve local
22 flexibility. That's very important. Ensure a strong
23 water-use efficiency component in the Bay-Delta
24 program -- that's something that people have been
25 telling us throughout the program -- and finally offer

26

1 help in planning and financing conservation. In other
2 words, giving people the tools they need to make more
3 efficient use of water.

4 And in particular, I'd like to focus on
5 market mechanisms, whether it's financial incentives
6 in the urban sector to help a financially strapped
7 agency pay for conservation programs like toilet
8 replacement programs, or in the ag sector this is
9 really where we see one place that water transfers can
10 be important. Water transfers provide a voluntary
11 market mechanism to use water more efficiently.

12 So finally, just to close out the
13 introduction to this topic, we included three
14 questions in your agenda packet.

15 First, what advice does BDAC have to offer
16 regarding this broad view of water-use efficiency that
17 meets a number of different CalFed objectives and
18 really goes to the heart of what Lester showed us in
19 Stage 2 where we look at the linkages among all the
20 resource areas that CalFed is looking at.

21 Second, is it appropriate to look at this
22 broad view of water-use efficiency within the context
23 of the work group?

24 And finally, are there any other
25 considerations that we have missed?

27

1 CHAIRMAN MADIGAN: Are there questions
2 at this point of Rick?

3 MR. MEACHER: Rick, if you could for
4 me, since I haven't attended any of those meetings at
5 this time and being new to the advisory council, when
6 you talk about efficient use of water -- unit, I think
7 is how we describe it here, utility obtained from a
8 unit of water?

9 MR. SOEHREN: Yes.

10 MR. MEACHER: I -- it's evident to me
11 that we talk about agricultural and urban. I guess in
12 my mind I have this map of the whole hydrological unit
13 from the cloud down to the end user. Do we include
14 cloud seeding as the utility of the unit of water,
15 vegetation manipulation in the upper watersheds as
16 part of that discussion, or have you done that in your
17 discussions?

18 MR. SOEHREN: Well --

19 MR. MEACHER: Or where -- do you have
20 an imaginary boundary where this starts in your mind?

21 MR. SOEHREN: In the water-use
22 efficiency work group, we've been looking at the local
23 management of water and how that can be changed to use
24 water more efficiently.

25 So I guess in the context of the work

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1 group, I'd say that the map starts when water is
2 diverted or impounded or pumped from an aquifer down
3 to the ultimate last user of that water before it
4 evaporates or transpires or is discharged to a salt
5 sink or is otherwise irrecoverable.

6 CHAIRMAN MADIGAN: Judith, do you want
7 to add to that?

8 MS. REDMOND: Yeah, I think it's also
9 safe to say that there is an interest in figuring out
10 mechanisms that could look at watershed-wide
11 approaches, and that the broad definition of water-use
12 efficiency that was adopted by the work group
13 attempted to create that as an option, that we
14 wouldn't just look at district by district mechanisms
15 but also might make possible these statewide or
16 watershed or basin-wide mechanisms that might be
17 beneficial, like vegetation management and things like
18 that.

19 MR. MEACHER: If I may, Mr. Chairman.

20 What I heard, though, was that we start
21 from the impoundment facility on down. But what
22 you're saying could affect above the impoundment
23 facility on the water from perhaps the cloud seeding
24 or from when the rain leaves the cloud to that
25 impoundment facility.

29

1 That's why I would submit to the council
2 that under the third question, are there other policy
3 considerations for the council to consider, that we
4 look at the entire hydrological unit and not just from
5 the impoundment facility on down.

6 CHAIRMAN MADIGAN: Lester, do you want
7 to add to that?

8 MR. SNOW: Yeah. What I'm -- make sure
9 we're separating the issues properly and
10 realistically.

11 In terms of what Rick described, the
12 water-use efficiency work group is looking at the
13 issues associated with water use that result from a
14 diversion or pumping of the water. So you're moving
15 it out of the natural system. And so that's the
16 focus, how you use that water, how you use the water
17 more efficiently.

18 The issue that you are raising, I think, is
19 what we are trying to capture now in the ecosystem
20 program in terms of proper management of the
21 watershed. And it seems like that would be a better
22 place to deal with that issue, rather than to say that
23 a -- well, I mean, you raise an interesting point, but
24 what got me thinking like this was the concept that we
25 were going to look at the efficiency of a cloud and

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1 when it releases water the same that we would a city
2 in terms of how much water it uses to flush its
3 toilets, which is more consistent with water-use
4 efficiency. Whereas perhaps if we can better define
5 the watershed management issue, it fits better in the
6 ecosystem restoration program.

7 So I thought I was going to make a
8 statement, I ended up asking a question.

9 CHAIRMAN MADIGAN: But it was a good
10 one.

11 Mary, do you have any?

12 MS. SELKIRK: Yes, I have a number of
13 comments. One is, I really appreciated this document.
14 I think that it gives us a more useful working
15 definition of water use efficiencies.

16 I do have some concerns about how we do
17 define the concept of increasing the utility of a unit
18 of water. I know that you've listed it on the last
19 page as a list of potential benefits from increasing
20 the utility of the unit of water.

21 I think that it's important that as we
22 approach specific tools that might advance a higher
23 level of utility, that we have to include factors
24 other than just the profitability that can be achieved
25 from a unit of water, which is sort of a traditional

31

1 economic -- probably economic standpoint, that we also
2 have to factor in environmental benefit, social
3 benefit, that kind of thing. And I realize that that
4 means getting into a lot of untracked territory but I
5 think we have an opportunity to do that here.

6 I do think that in answer to the second
7 question, I think the answer is yes. I think it's
8 really that the work group is the forum for review and
9 development of specific tools for water-use
10 efficiency. I think that's the charge of that group.

11 And I also -- just one last comment. I
12 think if through the work of this group and CalFed we
13 can begin to approach developing a concept of a more
14 true cost of water to the users, that would include
15 the different benefits accrued and the different
16 factors of environmental, social, as well as economic
17 benefit, that we will be able to approach a much more
18 supportable and rational approach to pricing.

19 CHAIRMAN MADIGAN: Think so, huh?

20 MS. SELKIRK: Uh-huh.

21 CHAIRMAN MADIGAN: So, Lester, you're
22 going to resolve the question that Bob asked between
23 the two work groups in terms of drawing the lines, and
24 we will try to come back shortly with some sort of a
25 rational definition of responsibilities, okay?

32

1 Judith?

2 MS. REDMOND: And one way to help
3 answer that question might be for suggestions in terms
4 of mechanisms that you see for -- you know, mechanisms
5 that would include watershed management. I think that
6 if we were thinking of actual on-the-ground
7 approaches, it would be clear whether they were
8 ecosystem or water-use efficiency approaches. So
9 suggestions that you might have would also be helpful.

10 CHAIRMAN MADIGAN: Okay. Richard?

11 MR. IZMIRIAN: Rather than defining the
12 broader view in terms of greater utility or greater
13 benefit from each unit of water, why not consider
14 discussing the water-use efficiency, the broader view
15 is how measures can best achieve a Bay-Delta solution,
16 keeping in mind the underlying public trust
17 requirement of restoring the Bay and Delta through
18 flows. I see the same hazard that Mary sees in
19 defining it as utility. And I would think that it
20 would get us a little more focused on the solution if
21 we simply define it that way.

22 CHAIRMAN MADIGAN: Tell me again. I
23 was writing down the names, Richard.

24 MR. IZMIRIAN: Simply rather than
25 defining it as greater utility per unit of water,

33

1 define the broader view is how efficiency, in the
2 broader sense, can contribute to a Bay-Delta solution.
3 I see this process being rather an end in itself. The
4 water-use efficiency is not being looked at to any
5 great extent in solving the problem.

6 What I would like to see is a clear path
7 from the water-use efficiency measures to a solution.
8 In other words, more water for flows in the Bay and
9 Delta. For that aspect of it, improving water quality
10 and everything else.

11 CHAIRMAN MADIGAN: Lester?

12 MR. SNOW: Well, the solution to the
13 Bay-Delta system problems isn't just the ecosystem.
14 The solution includes water-supply reliability, water
15 quality and the levee stability. And so you have to
16 keep in mind that water-use efficiency measures can
17 result in improved water-supply reliability without
18 any additional flows in the ecosystem.

19 MR. IZMIRIAN: I understand that. I'm
20 mentioning an area that seems to be ignored. You
21 know, fisheries have given up an awful lot so far, and
22 so far I don't see much being given up anywhere else.
23 I see a great deal of resistance to land retirement
24 and aggressive conservation management, but there have
25 been an awful lot of fishing bodies retired, a lot of

34

1 people who don't by fishing licenses anymore. It's
2 time to consider all areas. And I think we can get
3 there better if we looked more in terms of the
4 solution than just looking at it as a unit, benefit
5 per unit of water.

6 You look puzzled.

7 CHAIRMAN MADIGAN: I'm thinking about
8 it. It's an interesting question. I'm not sure I
9 agree with everything you say, but I am listening
10 carefully to it at this exact moment anyway.

11 Stu?

12 MR. PYLE: I think the paper on role
13 and scope has moved a lot in the right direction in
14 that it's now defining a process of water management
15 and talking about allocation of water among various
16 types of uses. But I think it's still creating a lot
17 of confusion by trying to use the word "water-use
18 efficiency" to describe this process.

19 I've written you about that and you wrote
20 me back, said, "Don't worry about it," but I still
21 think that we are off the track and you're not going
22 to be able to get back onto it until you recognize
23 that you're talking about water management and you're
24 talking about reallocation of water supplies.

25 And it gets confused when you attempt to

35

1 use water-use efficiency, and even utility, and when
2 you start talking about benefits, because these are
3 items which have long traditions of being evaluated
4 through numerical processes; you measure benefits in
5 dollars; you measure efficiency in various units, all
6 of which boil down to dollars.

7 Now you're talking about making decisions
8 in water-use efficiency as divisions of water between
9 water quality, ecosystem, water-supply reliability,
10 and so forth. And how are you going to make the
11 determinations whether it's more efficient to use
12 water for internal household purposes, brushing your
13 teeth, whether you use it for washing the car, growing
14 carrots, maintaining water quality in the Delta,
15 putting out a flushing flow for fish in one of the
16 rivers?

17 How do you measure the relative measure of
18 utility for each one of those purposes and try to
19 decide which is more efficient? Is it more efficient
20 to let the water run while you brush your teeth or to
21 flush salmon smelts down the river with a slug of
22 water?

23 I don't think you can do that numerically.
24 You just don't have the data at this point. You're
25 talking about judgments which have to be made on a

36

1 basis which are individual, they're socially oriented.
2 And I don't disagree with the process that we're
3 doing, but I think we're using the wrong terms and
4 that somehow you have to begin talking about water
5 management and allocation of water, and where
6 efficiency actually does come into play you have to
7 define that and use it.

8 CHAIRMAN MADIGAN: I have Rosemary,
9 then David, then Alex, then Ann, then -- and Mary.

10 MS. KAMEI: Thank you, Mr. Chairman.

11 I read Stu Pyle's comments, his letter,
12 with a lot of interest because I think that he's right
13 in terms of using the word "efficiency." It seems
14 more appropriate that it would be water use management
15 considerations that we would want to look at, although
16 we want them to be efficient and we would like to
17 increase the utility of the unit of water.

18 So I wouldn't have a problem with it if you
19 specify that, yes, you know, we want it to be
20 efficient. The only thing is that it's very
21 subjective. I mean, going back to what Stu said, how
22 do you state whether or not, you know, the toilet
23 flushing or, you know, using water for flows is more
24 efficient? It's very hard to determine that unless
25 you've got some kind of a scale or something set.

37

1 Also, under other considerations, I would
2 like to share some information that came out of the
3 Bay Area Water Policy Forum, which is a regional group
4 that is trying to discuss the Bay Area regional issues
5 on water. And there is a little bit of a danger of
6 having -- do you want me to explain the group? You're
7 look at me very puzzled.

8 CHAIRMAN MADIGAN: No, I'm listening,
9 I'm listening. Don't you guys be interpreting my
10 looks too much.

11 MS. KAMEI: Okay. It's just that we
12 were wondering about it.

13 CHAIRMAN MADIGAN: I could just be
14 tired. You don't know.

15 MS. KAMEI: It's a group that has
16 governmental as well as environmental urban users,
17 different water users and the business community that
18 have come together to talk about water issues and
19 water policies in our region, specifically the Bay
20 Area region.

21 And I'm sorry that Roberta is not here
22 today because when she did give her water-use
23 efficiency report, she did mention some of the work
24 that was going on with the California Urban
25 Conservation Council, Water Conservation Council and

38

1 some of the individuals who were in the group and have
2 not been so closely tied to the CalFed process or
3 knowing all of the different things that are happening
4 in CalFed, were very alarmed to hear that there are
5 mandates and penalties that are being recommended in
6 the urban water users.

7 Now, if you read the information that's in
8 the minutes for the water-use efficiency work group,
9 that's not the case. There's a lot of information and
10 considerations that have already been in place.

11 But absent that information, if you're an
12 individual who has come in either from the business
13 community, another water district, or, you know,
14 someone who has not been quite involved, you hear
15 these mandates and penalties and all kinds of things
16 that are being recommended. It's still in draft form;
17 we're still working on it.

18 But then the question is asked, well, what
19 is happening with the agricultural conservation group?
20 Are they moving ahead? What are they doing? What's
21 their program? And then you have questions of, well,
22 what are the efficiencies that are being looked at in
23 terms of the ecosystem? And we know that that's
24 happening, but a lot of other people don't know that's
25 happening.

39

1 So I just wanted to share that information
2 in terms of considerations when you look at this and
3 you look at the words that are being used.
4 "Efficiency" does not mean the same thing to other
5 groups so we need to be careful.

6 CHAIRMAN MADIGAN: All right. Thank
7 you.

8 David?

9 MR. GUY: I think like others I'm
10 wondering, too, if we're not creating a debate that is
11 unnecessary by calling this water-use efficiency. It
12 seems to me that Rick touched on this notion that
13 we're really talking about local water management, and
14 water-use efficiency is clearly a component of that.
15 And although I don't want to get into semantics
16 debates, are we not really just talking about local
17 water management.

18 I think Stu has articulated it more
19 eloquently than I can, but are we really not creating
20 unnecessary debate just by the headings we use?

21 MS. SELKIRK: I'm sorry. I'm going to go
22 out of turn. I can't help but point out that the
23 original name of this work group was Demand
24 Management, not water-use efficiency.

25 MR. GUY: Well, I think there's a

40

1 difference between demand management and local water
2 management, and I think that's the --

3 MS. SELKIRK: Well, in some sense the water
4 that's managed is the water that's demanded to be
5 managed. I understand. I'm just kind of pointing
6 that out.

7 CHAIRMAN MADIGAN: Thank you.

8 Alex?

9 MR. HILDEBRAND: I think it's pretty
10 clear from this discussion that we don't have a
11 problem when we are talking about using water
12 effectively for any given purpose. We don't have a
13 problem when we're talking about more multiple use of
14 water, more reuse of water, increasing water yield,
15 even -- whether it be by managing upstream of the
16 reservoirs or seeding clouds and so forth.

17 The place we start to fall apart is where
18 we come to this issue of whether we decide that it is
19 more in the public interest to use water for one
20 purpose versus another.

21 And when you really get down to looking at
22 what our proposals are, then it almost always comes
23 down to the question of people believing that it will
24 be more useful in the broad long-term public interest
25 to reduce the production of food in order to make

41

1 water available for environmental and urban purposes,
2 and I think we need to address that head-on. That's
3 really what it boils down to.

4 Now, if you assume that we haven't
5 addressed durability yet, except insofar as Lester has
6 already told us that durability is 24 years. But if
7 you assume that we want to have our program be viable
8 for somewhere in the range of 25 to 30 years at least,
9 where the -- and must deal with the competition for
10 land and water that will exist at that time, then we
11 have to look at what's -- what is that competition
12 going to be. And most forecasts indicate then that
13 we're talking about something in the order of 20
14 million more people to feed in California.

15 And if you look at the -- what it takes to
16 grow that food, we're going to have an enormous
17 production in the per capita allocation of water to
18 grow food, even if we don't do all this lovely
19 reallocation that people would like to do, just the
20 mathematics of the increase there, plus the
21 urbanization of land which is going to take ag out of
22 production, the fact that we're overdrafting ground
23 water and we can't continue to do that for 30 years,
24 we're going to be down to probably less than half the
25 current allocation of water to grow food at that time.

43

1 that seller.

2 And they talk about not making transfers
3 that will aggravate the groundwater overdraft or
4 contaminate the groundwater. It will not cause a
5 great economic distress in the rural districts, et
6 cetera, et cetera. That's not what's going on.

7 If you look at the -- take an example here.
8 The -- our program and the CVPIA B3 acquisition
9 program, each propose to acquire large quantities of
10 water from the east side San Joaquin tributaries that
11 are already overcommitted. And -- but they don't
12 propose to follow the rules by these policy statements
13 in doing that.

14 And these are listed in every alternative.
15 The acquisition is not listed as something we will do
16 if we can do it within the rules. It's something
17 we're going to do.

18 Now, within this month, for example, the
19 Bureau of Reclamation voluntarily wrote a FONSEI and
20 signed a contract with the Merced Irrigation District
21 to procure roughly 100,000 acre feet of water over the
22 next 16 months or so. But that water is -- doesn't
23 represent any decrease in water consumption by the
24 sellers, none at all. It's entirely a reallocation of
25 summer flow to spring and fall flow for fish.

42

1 So that then raises a question. Is it
2 really in the broad public long-term interest to
3 reduce the current availability of water to grow food,
4 even on an absolute basis which is what we are talking
5 about here?

6 And it also raises the question that if our
7 environmental goals are going to be sustainable in the
8 face of that competition 30 years from now, can we
9 sustain the public support for the environmental water
10 if people start having to pay a lot more for their
11 food and can't get the kinds of food they prefer?

12 My feeling is that the answer to that is
13 no. So I don't think it's either in the environmental
14 interest or in the interest of the broad public
15 interest to cause and propose measures that will have
16 this result.

17 Now, the method of achieving this
18 reallocation is largely by -- supposed to be by water
19 marketing. But if you look at the statements of
20 Lester's in the issue paper, the statements of the
21 governor in his policy statement, or the statements of
22 the policy on water transfers in the CVP Improvement
23 Act, they all talk of transferring water that is
24 from -- not only from willing sellers, but which
25 represents a reduction in consumptive use of water by

44

1 The consequence is that, sure, the sellers
2 don't get hurt, the impact will be on the downstream
3 people along the San Joaquin River and in the South
4 Delta. They have riparian rights that are already
5 being encroached. This will further encoach them.
6 The consumptive public trust deeds in that area will
7 be impacted, and the programmatic EIS and the FONSEI
8 that was written for the specific purpose don't even
9 acknowledge that.

10 Earlier this week, the bureau's front lady
11 on buying water was asked by somebody in the meeting
12 as to whether the bureau is going to abide by the
13 water right priorities in the state in connection with
14 making their purchases. And the answer was, we only
15 buy from willing sellers. That didn't answer the
16 question.

17 And this is a perfect example of where they
18 are going to buy from willing sellers but they are
19 going to impact other parts. So this is a way the
20 thing is actually working.

21 Now, I think that that's a mistake. And I
22 would -- I believe that we should stop using
23 agriculture and our ability to produce food as a
24 short-term reservoir to get water for other things.

25 I'll submit a motion to bring the matter to

45

1 a head. Whereas the population of California and of
2 the United States will grow substantially in the next
3 three decades, and whereas the need for food and
4 clothing will consequently also grow substantially,
5 and whereas the per capita allocation of water to grow
6 food will inevitably be substantially reduced, the
7 policy of the BDAC is therefore that the CalFed
8 program shall not cause or promote measures that will
9 result in a net long-term reduction in the combined
10 ground and surface water supply that is now utilized
11 for the production of food and other agricultural
12 products.

13 MR. McCARTY: I would second that
14 motion.

15 CHAIRMAN MADIGAN: Well, I'm not sure I
16 want to have a vote on it today because, among other
17 things, there are a fair number of people who weren't
18 here, and I would like to see everybody get a chance
19 to consider this because it is an important question.
20 It is certainly in conflict with the governor's water
21 policy --

22 MR. HILDEBRAND: I'll read you where it
23 is not.

24 CHAIRMAN MADIGAN: I'm pretty
25 comfortable with that, Alex.

47

1 basis if we have an issue of this magnitude?

2 CHAIRMAN MADIGAN: No, but this is --
3 we don't. As a matter of practice, we generally try
4 to arrive at some sort of consensus around here. One
5 of the notions of this organization has been to not
6 try to take votes on things that wind up 18-16 or
7 19-15 or something like that, and to see if we can't
8 work these things through because I think everybody
9 understands that at the end we have to have something
10 that at least approximates consensus if we're going to
11 be successful.

12 So while I suppose that we can take votes
13 on most anything, as we are advisory, and as long as
14 we properly notice them and all those sorts of things,
15 we can probably offer our opinion in any number of
16 ways to the powers that be. This isn't a vote that I
17 want to have today. But I have not heard a second to
18 Eric's --

19 MS. KAMIE: I second.

20 CHAIRMAN MADIGAN: I'm sorry. Rosemary
21 seconded the motion. All right. So we have a motion
22 to table this for the moment, as significant as the
23 question is, and the discussion at this point is on
24 the motion.

25 Richard?

46

1 I want to make sure that everybody has a
2 chance to consider the water transfer question before
3 we bring it up. If it is the desire of this group to
4 test the question of water transfers, then we can do
5 that, but I don't want to do it today.

6 Yes? Go ahead, Eric.

7 MR. HASSELTINE: I think there's a lot
8 of merit in some of Alex's ideas and certainly is an
9 in-depth analysis to look at what is obviously a very
10 serious problem, but I don't think we've totally
11 dissected the problem and I think it's so central to a
12 lot of what we're doing here that it really would be
13 premature to make such a sweeping statement at this
14 time.

15 So I'd like to submit a motion to table
16 that motion until later. That's to be, you know,
17 decided by the BDAC.

18 CHAIRMAN MADIGAN: All right.

19 MR. MEACHER: Point of order,
20 Mr. Chairman.

21 CHAIRMAN MADIGAN: Bob?

22 MR. MEACHER: Is it the purview of this
23 body to -- whereas I sympathize with Alex and I
24 understand a lot of his concerns, just as a point of
25 order, do we make these sort of motions on a regular

48

1 MR. IZMIRIAN: I'm still not certain

2 what the resolution of the -- whether or not we can
3 make motions here or not. But my main point is --

4 CHAIRMAN MADIGAN: We can make motions.
5 I mean, we have to do it by the book. We have to do
6 them properly, but we can offer our advice in any
7 number of ways.

8 MR. IZMIRIAN: Okay.

9 Alex has made a number of assertions over
10 time and there are certain assumptions underlying the
11 statement he just made, all there in the "whereases."
12 I've never heard anybody challenge any of these
13 things. I'm not sure if I should accept them, or I
14 would like to delve into them more deeply. Is there
15 anticipated anywhere in this process doing some
16 evaluation of those underlying assumptions, or are we
17 accepting those?

18 CHAIRMAN MADIGAN: Lester?

19 MR. SNOW: Well, I have to admit I'm
20 having a little hard time with the context of all
21 this. The answer to your question about, say, the
22 CalFed Bay-Delta program analyzing the world's food
23 and fiber needs and what options there are to deal
24 with that is not on the table. It's not in our scope.

25 We do have the more specific issue of how

49
1 do we manage the Bay-Delta system to make more water
2 supplies available and to grow the whole system for
3 all of its beneficial uses which can have an impact on
4 agriculture.

5 But I guess I have to digress a moment and
6 overlay a context that I'm looking at here that's in
7 our critical path, and that's the water-use efficiency
8 effort that initiated this discussion. And I guess
9 there's just a couple things I want to point out
10 because there's been comments made in the discussion
11 we've had so far that the water-use efficiency
12 program, as we have envisioned it, establishes
13 priorities for types of water use and reallocates
14 amongst those priorities.

15 That is not the case. That is not
16 contained in the program in any way, shape or form.
17 What we have established is that the efficient use of
18 water is in the best interest of everybody in the
19 entire State of California and that there are multiple
20 uses of water. And there is not a single reason to
21 implement a water-use efficiency measure but there are
22 multiple reasons.

23 Our program is not based on reinventing
24 approaches to this. In fact, our program is founded
25 on pulling in to the CalFed Bay-Delta program, the

50
1 best management practices developed in the urban
2 sector, the efficient water management practices
3 developed in the agricultural sector, and adding to
4 that guidelines for managed wetlands that has been an
5 issue. And that's what we have intended to do and
6 what we have on the table in terms of water-use
7 efficiency.

8 Where the issue of transfers has come up is
9 that we have seen the concept of market transfers as a
10 mechanism for providing the economic incentive to
11 implement some of these measures, that if an
12 individual realizes that they can implement a measure,
13 they can recover the costs of that measure by entering
14 the transfer market.

15 And that's really kind of the heart of the
16 program, is a lot of details to be worked out. But
17 nowhere in there are we specifically contemplating the
18 forced reallocation of water or a specific large
19 reallocation of water. That can happen; there can be
20 a incremental reallocation of water through market
21 forces. And that's why we have on the table the much
22 broader market question of what kind of conditions or
23 guidelines or limitations are necessary for a proper
24 market.

25 If we are to get into the much broader

51
1 issue of world food and fiber needs, that is a very
2 different ball game, a very different timeline, and an
3 issue that can take years. So I'm concerned about
4 that.

5 CHAIRMAN MADIGAN: All right. The
6 motion on the table is to table Alex's motion. All in
7 favor of the motion --

8 Alex, go ahead.

9 MR. HILDEBRAND: We've already been
10 discussing the motion --

11 MR. HARRISON: Those are nondebtable.

12 CHAIRMAN MADIGAN: They are
13 nondebtable and I am being --

14 MR. HILDEBRAND: It's been debated
15 here.

16 CHAIRMAN MADIGAN: Go ahead, Alex.

17 MR. HILDEBRAND: In the area of land
18 marketing, we don't have a free market without
19 restraints. We have zoning. The land is zoned for
20 agriculture, for residential, industrial, whatever.
21 And you free market within those zones but you don't
22 free market across those zones, which is what we're
23 talking about here.

24 And it seems to me that the same problem
25 applies. We've got a limited total availability of

52
1 water, just as we have a limited total availability of
2 land. And my land is zoned for agriculture. I would
3 not be free to sell it for a movie theater or a
4 factory. I'm free to -- I can remarket it for
5 agriculture, but not for those other purposes.
6 No, I'm encouraged to sell my water for
7 other purposes. If so, I totally frustrate the
8 purpose for which I was zoned for agriculture. And
9 all I would then do is breed ground squirrels and
10 tumbleweeds which would roll over on my neighbors and
11 make them want to get out of business, too. I don't
12 think that's the way to run the railroad.

13 Now, we don't need to have water transfers
14 among purposes of use in order the force efficiency
15 within purposes of use. The primary incentive for
16 efficiency in the case of agriculture is water
17 scarcity. And as long as the price doesn't put them
18 out of business, it's not the price so much as the
19 scarcity. So we don't have to be able to market water
20 to some other use in order for us to be efficient.

21 CHAIRMAN MADIGAN: All right. All in
22 favor of the motion to table, raise your hands.

23 (Vote)

24 CHAIRMAN MADIGAN: Opposed, raise your
25 hand.

53

1 Thank you. Motion is tabled.

2 The next speaker is Ann.

3 MS. NOTTHOFF: Thank you.

4 I just want to respond that I don't think
5 it is a choice between food and fish. I don't think
6 it's an either/or proposition. And there are many
7 water efficiency tools that have multiple benefits,
8 and that's what we're here to look at.

9 And society has made some choices in terms
10 of -- and placed some priorities and values on the
11 importance of water for multiple uses, whether it's
12 for environmental benefits or for agricultural
13 productivity. We are not operating in a vacuum here.
14 We are not the ones that are setting these priorities.

15 We have a Bay-Delta accord. We have the
16 Central Valley Project Improvement Act; we have the
17 governor's water policy. There are a number of legal
18 mandates that we are operating under that do place
19 importance and priorities on a variety of uses of
20 water. So that said, I do want to say that I have
21 some concerns about the range of activities and issues
22 that are being studied in the water-use efficiency
23 work group.

24 One is I have a concern that -- while I'm
25 comfortable with emphasizing market incentives and

54

1 market mechanisms, I think that's fine, but I don't
2 think that means that we should ignore regulatory
3 handles that are available to us. And I don't believe
4 that -- emphasis is fine to reiterate, but I don't
5 think that means that we ignore regulatory handles,
6 and I want the analysis of regulatory handles and
7 looking at what we are required to do as the baseline
8 as a key component in looking at water-use efficiency
9 techniques.

10 One other thing that we have had a lot of
11 discussion about that -- in previous work groups about
12 water-use efficiency that I haven't heard discussed
13 today in that context, is the issue of land
14 retirement. And I believe here again, land retirement
15 has a number of multiple benefits, both in increasing
16 use efficiency in the agricultural sector as well as
17 getting some marginal lands with drainage problems out
18 of production.

19 So that I want to hear some discussion
20 about how that's going to be handled and how the land
21 retirement issue is going to be addressed in the
22 context of the CalFed process.

23 CHAIRMAN MADIGAN: All right. Lester,
24 do you want to respond to that?

25 MR. SNOW: Thank you.

55

1 Responding to the land retirement, as you
2 know, we looked at it several ways earlier on in the
3 program and have come down to looking at it in a very
4 specific way at this point. And that is that land
5 retirement -- first of all, we want to look at the
6 end; that is, what is it we're trying to accomplish.
7 Land retirement is not an end. It cannot be an
8 objective. It can only be a tool that's used to
9 achieve an objective.

10 And when we looked at it in that regard,
11 the place that it fit in the program was for its
12 consideration for dealing with drainage issues,
13 basically water quality. So as such, we still have
14 land retirement as a tool within the water quality
15 program.

16 We do not have it as a specific tool within
17 the water-use efficiency program because there are
18 other mechanisms, including the market approach, that
19 can be utilized if somebody wants to use that
20 particular tool. So the only place we have it in our
21 program at this point is as a water quality measure
22 specifically to deal with drainage lines.

23 MR. HILDEBRAND: Still have it in as a
24 form of maximum retirement of land during dry years in
25 agriculture in order to create reliability for other

56

1 purposes, and water acquisitions are just another way
2 of achieving land retirement.

3 CHAIRMAN MADIGAN: Ann, did you want to
4 answer the follow-up question?

5 MS. NOTTHOFF: To the extent that
6 including in the water quality component means that it
7 will get seriously addressed and we are going to be
8 looking at a target in land retirement program, that's
9 okay, I guess.

10 I get concerned when I hear you say that
11 it's a drainage issue because I remember from months
12 ago your resistance in having CalFed deal with
13 drainage. So if that means it's not going to get
14 dealt with because it's a drainage, I object to that.

15 MR. SNOW: Actually, to clarify my
16 resistance, the resistance was to deal with drains
17 as opposed to drainage. And, in fact, water quality
18 in the San Joaquin River is clearly part of our
19 program. What we defined away in actually talking
20 with people in the San Joaquin Valley, was that CalFed
21 Bay-Delta program is not going to take on the issue of
22 constructing a drain.

23 CHAIRMAN MADIGAN: Yes?

24 MS. SELKIRK: I just wanted to know
25 where we are on the --

57

1 CHAIRMAN MADIGAN: We are working my
2 way down my list of people who have things to say on
3 this issue.

4 Hap?

5 MR. DUNNING: I have a couple of
6 reactions to comments that people have made. Stu long
7 ago indicated his continuing concern about the use of
8 the word "efficiency." In my mind, at least in my
9 experience, I've always thought of efficiency in two
10 quite distinct senses. One is physical efficiency,
11 and the other is economic efficiency. And I'm
12 wondering if Stu is thinking of it primarily in the
13 former since, physical efficiency.

14 With economic efficiency, I think you
15 understand the water transfer process as involving
16 efficiency because through the market mechanism, water
17 is moving from a less valued use to a more valued use.
18 Hence, greater wealth, or whatever benefit for
19 society. And this is -- maybe ties into the land
20 retirement debate because to the extent that land is
21 retired as the result of movement of water, you are
22 having that change from less productive to more
23 productive. And you don't need all of the data and so
24 forth to refer to because supposedly, this is a theory
25 at least, the market makes that judgment.

59

1 The conversion of agricultural land to development
2 purposes is one of the main phenomenons, the most
3 characteristic thing about our whole --

4 MR. HILDEBRAND: It's not about
5 marketing, though.

6 MR. DUNNING: Well, we do.

7 CHAIRMAN MADIGAN: All right, guys.
8 This is fun, and we're almost at lunch and we'll
9 continue.

10 Thank you. I appreciate that, Hap.

11 Listen, if it's okay with you guys, I would
12 like to go ahead and leave the name of this group,
13 water efficiency, in it simply because we've already
14 printed the stationery. I think the management issue
15 is an important one.

16 MR. HALL: You should have said so from
17 the beginning.

18 CHAIRMAN MADIGAN: And I think that you
19 have made some good points in terms of management.
20 And I think, Judith, that you have been making notes
21 in that regard. But this works, and we've all kind of
22 come to grips of what it means, and the questions will
23 represent the spectrum of the kinds of things that you
24 have brought up today within this heading, if it's
25 okay with everybody.

58

1 I'm not particularly wedded to using
2 efficiency for the work group. I'd be happy to go
3 back to demand management. But I do think the use of
4 the term can be justified.

5 The other thing is a brief comment on --
6 and in support, I guess, of Lester, with regard to
7 Alex's continuing concern about long-term population
8 growth projections and water needs, food and fiber
9 needs, I think we're going to be in a real morass if
10 we try to tackle that.

11 I'm sympathetic to his concern for those
12 long-term problems, but we were given a charge to fix
13 the Delta, and I think it's absolutely essential we
14 stick to that charge and not let ourselves get
15 diverted into these questions about how one deals with
16 49 million people in the year 2020, I guess it is, and
17 how their food and fiber needs are met. There are a
18 whole lot of considerations that go into that. It's
19 an important public concern, but I don't think it's
20 something for this group.

21 MR. HILDEBRAND: Are you in favor of
22 doing away with land zoning?

23 MR. DUNNING: Well, you said some
24 things about zoning which are simply, I think,
25 inaccurate. We do trade land rights across sectors.

60

1 Where am I on the list?

2 Mary, you're next.

3 MS. SELKIRK: I had several comments,
4 but I wanted to speak directly to Alex's letter that
5 you sent to Lester, Alex, and to speak to your motion.

6 In one of the letters that you wrote to
7 Lester, you asked this question of the BDAC, that
8 CalFed make a commitment to essentially no net loss of
9 water to agriculture, that that should be an essential
10 foundation of CalFed.

11 And I was dismayed to see that because I
12 think that if we are trying to fix the Delta in a way
13 that has to in some fundamental way address
14 efficiencies, that to assume that -- first of all,
15 that loss of water to ag, which is what you said
16 earlier, you said it was not pricing but scarcity that
17 would drive people out of business. If we assume
18 that, then you assume that loss of water means loss of
19 ag, agricultural activity on a particular area, and I
20 think that assumption really needs to be addressed.

21 We know that there are vastly different
22 contributions to the ag economy that are made from
23 different kinds of growing of different kind of crops
24 across the state, some very high water intensive crops
25 that contribute significantly less to the entire

61

1 economy of the state than others.

2 Now, that is not our charge to get into
3 those kinds of debates here, but I do think that if we
4 are going to try to embrace a concept that efficiency
5 is going to provide -- is going to grow the system, as
6 Lester said, for all users, then that means just as an
7 urban water district has to concern itself with
8 whether it will establish a pricing structure that's
9 going essentially to make people pay more money if
10 they want to water their lawns in the middle of summer
11 and they live in a hot climate, I think it's incumbent
12 upon water users in the ag sector to make those same
13 kinds of determinations.

14 So I can't support as a foundation for
15 CalFed certainly that we can make a guarantee --

16 MR. HILDEBRAND: I think farmers are
17 making those decisions all the time because of
18 scarcity and because of market factors that aren't all
19 understood outside of the agricultural industry.

20 For example, we're always told we shouldn't
21 grow alfalfa; it takes a lot of water. Well, sure it
22 takes a lot of water because it grows a lot of
23 biomass. It takes a lot of water to grow a lot of
24 biomass. But the alfalfa is essential to the dairy
25 industry.

63

1 these other things, and somehow or other it seems to
2 be okay to market water for different purposes. But
3 if -- we have all kinds of restraints in society
4 against changing the purpose of use of lands and other
5 things, and I don't know why water should be treated
6 any differently.

7 MS. SELKIRK: I think water doesn't
8 exactly fall in the same category. It's a
9 nonrenewable public resource. It's not like even a
10 national forest that can be replanted. But anyway, I
11 don't want to get into --

12 CHAIRMAN MADIGAN: No, I've enjoyed
13 this.

14 MS. SELKIRK: But anyway, I think that
15 if we cannot -- that if we're going to have a
16 productive debate and be able to advise CalFed around
17 this table, I think there are some central assumptions
18 that we all have to agree that we agree to. Like, for
19 example, some of the precepts regarding water-use
20 efficiency that -- in Lester's memo to BDAC.
21 Otherwise, we can debate and end up polarized in a way
22 that I think will not be particularly useful to Lester
23 and his staff.

24 MR. HILDEBRAND: I don't think this
25 conversation augurs well for having a consensus on the

62

1 So if you're going to stop growing alfalfa,
2 which is a relatively low-risk crop and that's one
3 reason the growth is less but the net is not
4 necessarily less, then you're going to have to cut
5 back on your dairy products. And if you cut back on
6 the dairy products, you also have to recognize that 60
7 percent of the hamburger comes from retired cows.

8 So there's a lot of implications there.

9 THE CHAIRMAN: Boy, I had not thought
10 of that one before.

11 MS. SELKIRK: No, I understand that, and I
12 agree with you. But I think ultimately the way that
13 we address those issues is through developing a truer
14 cost of the costs of water. Now, ultimately, that
15 should be -- that should be manifested in the price of
16 a pound of beef in the supermarket, and I don't think
17 it is. But --

18 MR. HILDEBRAND: Too big a time lag.
19 In the meantime you overdraft your groundwater and
20 then all of a sudden it's all gone and we can't get
21 through the next drought. And the time lags in the
22 price response are just too long.

23 That's why we don't market some of these
24 other things. We don't market our land across zones.
25 We don't market our parks. We don't market a lot of

64

1 program later on.

2 MS. SELKIRK: Well, I'm concerned about
3 that.

4 CHAIRMAN MADIGAN: So are we all, and
5 at some point we will have to define just exactly what
6 consensus is around here, and that will be an
7 interesting discussion all by itself.

8 I have Stu, and then Rosemary, then
9 Mike.

10 MR. PYLE: Since I did a lot to start
11 some of this, I'd like to say a couple words.

12 I agree with Hap's assessment that there
13 are two types of efficiencies, and he mentions the
14 efficiency in the physical characterization, which we
15 all talk about, and then the economic characterization
16 of moving waters. We've just been talking from one
17 lower use of agriculture to a higher use of
18 agriculture or to urban use. Certainly that is a
19 higher economic efficiency, and I agree with those
20 definitions.

21 But what I'm concerned about is that if
22 we're going to measure those, then how are we going to
23 measure the water quality efficiencies? How are we
24 going to measure the ecosystem efficiencies? That is,
25 if we're going to move water from some purpose,

65

1 whatever it is, urban, ag, whatever, into an
2 ecosystem, how are we going to measure the value and
3 the efficiency in those terms? And that's where I
4 fear that this process is leading.

5 When I opened my statement this morning, I
6 said I thought there was a lot of progress from the
7 first draft of the role of scope and work on the
8 efficiency to the one that we have now. And
9 recognizing your edict that we are going to stay with
10 the efficiency terminology, which I hope that we can
11 keep the efficiency related to these purely technical
12 recognized efficiencies and where we are dealing with
13 water management, that you make an additional water
14 management categorization.

15 When I first brought this up months and
16 months and months ago, you said, no, we have too many
17 work groups, we can't do a water management work
18 group. But what is CalFed all about but statewide
19 water management. I think somehow you have to face up
20 to that and you can't just keep backing water
21 management in under terms of some other point of view.

22 CHAIRMAN MADIGAN: No, I don't disagree
23 that water management is a big deal here. It is a big
24 deal here, it's central to what is going on and we are
25 going to have to fit it in. It is going to have to be

67

1 in different geographic areas.

2 So, Alex, I don't agree with you, but I
3 do understand your concerns.

4 CHAIRMAN MADIGAN: Thank you.
5 Mike?

6 MR. STEARNS: I just wanted to comment
7 on my concept of this water efficiency work group.
8 And the reason that it's before us is because the
9 question that is there as to accountability of the use
10 of water that passes through the Delta or affects the
11 Delta.

12 I think that given the time we have to work
13 with this, to get into these huge broad issues we
14 can't accomplish what I think the question is: It's
15 economic as well as a reasonable and beneficial use of
16 water. It's the time we need to educate people to
17 feel that people are accountable using the water
18 appropriately, and it's also to understand that it's
19 more than just a single use of water in an area.

20 For example, the San Joaquin River has got
21 its huge ecosystem in itself, and if we start
22 comparing one water district or one ag user, for
23 example, use of water to another, it doesn't take into
24 consideration the large amount of reuse of water by
25 refuges and others downstream.

66

1 identifiable, it is going to run across boundaries of
2 some of these work groups, I think. Certainly Judith
3 is going to have her share of it, and I think Mary is
4 going to have her share of it as well here. I don't
5 disagree with that notion, Stu.

6 Rosemary?

7 MS. KAMEI: I just wanted to say that,
8 you know, I agree with Mary. I was very concerned
9 reading Alex's September 25th letter. I think that
10 Alex brings up a lot of very good points. He's
11 sensitive to his own local areas. But I also think
12 that it should be emphasized that water-use efficiency
13 for agriculture does not equal land retirement.

14 I think that there are a lot of tools -- as
15 a person coming from horticulture, there are a lot of
16 tools available that can be used to use the water in
17 an efficient manner. And so I do not believe, and I
18 don't think that there's a group out there who is
19 saying that to be efficient in agriculture, you must
20 retire land. That is just not the case.

21 There may be instances where it makes
22 sense, where perhaps it's the best decision, but I
23 think it has to be left at the local level. We have
24 to take into consideration the communities that are
25 involved and the circumstances under which it occurs

68

1 I believe that for this group to be able to
2 support ag being involved in the AB 3616 program is a
3 step forward. And to gain some understanding about
4 the overall use of that water, not just ag but urban
5 and the environment as well, is what we need to
6 educate ourselves first before we can start asking
7 questions about is one use more beneficial than
8 another.

9 I just wanted to comment also that I really
10 support where Alex is coming from about ag and the
11 need to have some consensus that there is not going to
12 be a net loss, even to the point where federal
13 contractors, for example, feel like they have given up
14 so much that a 55 percent water supply in a normal
15 year is just not acceptable. We would hope that would
16 be something there could be consensus on, but
17 realizing it can't be done in one day.

18 I'll leave it at that.

19 CHAIRMAN MADIGAN: Thank you, Mike.
20 I have Mary, then Steve.

21 MS. SELKIRK. Actually I'll pass.

22 CHAIRMAN MADIGAN: Steve.

23 MR. HALL: Building on what Mike
24 Stearns just said, we all have individual views about
25 the role of water-use efficiency in fixing the Delta,

69

1 some of them strongly held. We also have a very large
2 job ahead of us. I think it's going to fully occupy
3 our time and energy to bring about a solution. And
4 while today's discussion has been illuminating, I
5 don't think it's central to our mission.

6 The point I wanted to make is that we have
7 two efforts that have been underway for several years
8 now in the urban area, the conservation council, and
9 through AB 3616 discussions and negotiations between
10 agricultural and environmental interests. And both of
11 those efforts have borne considerable fruit.

12 The urban effort, I think it's safe to say,
13 is well ahead of the agricultural effort because it
14 started sooner and they reached agreement sooner. But
15 I'm hopeful that we cannot reinvent the wheel but use
16 the considerable time, talent, and effort that's gone
17 into those two programs and encourage them to continue
18 and to expand, rather than attempt to go back and go
19 over the same ground that they have trod.

20 I don't mean to say that the issues are not
21 important. They certainly are. It's just a matter of
22 who's what already and how we can use it to advance
23 CalFed, and -- to use a word that's been used a lot
24 this morning -- to be as efficient as we can be in
25 what we are doing because I can pretty well bet that

70

1 everything we've discussed this morning has been
2 discussed in one or the other of those two forums to a
3 great extent and I think will continue to be discussed
4 in other forums.

5 So I guess my -- from this BDAC member's
6 vantage point, the policy advice I would like to offer
7 CalFed is that we use those two efforts rather than
8 trying to reinvent them. And then if there's one area
9 that's missing -- and I don't say this pejoratively, I
10 just say it because I think it's a fact, that we've
11 not had a forum where the efficient use of water
12 diverted for environmental purposes has been
13 discussed. It ought to be. Not out of -- not because
14 since ag and urban have to do it, the environmental
15 group should have to do it, too. That's not the
16 point.

17 The point is we ought to use the water as
18 efficiently as we can in every sector. And where we
19 have good efforts under way as we do in the ag and
20 urban sectors, we ought to use them. Where we don't
21 have them, we ought to develop them or seek to have
22 them developed.

23 CHAIRMAN MADIGAN: Thank you.

24 Mary, Richard and Hap.

25 MS. SELKIRK: I wanted to thank you,

71

1 Steve, for bringing that issue up. I wanted to
2 respond to your last point regarding water
3 efficiencies in environmental use.

4 Bearing in mind that CalFed has as its
5 geographic solution area primarily the Delta, that the
6 charge of the restoration work group is to look at
7 restoration primarily within the Delta, with actions
8 upstream.

9 There, I think, is built into an adapted
10 management strategy for restoration in the Delta the
11 ability for those who are involved in developing this
12 adaptive management program to look at what kinds of
13 flows are going to be necessary to create certain
14 desirable ecosystem function restoration or healthy
15 ecosystem conditions.

16 So I think it goes -- certainly it's
17 consistent with adaptive management that one of the
18 questions that will be asked, along with lots of other
19 ones, is what levels of flows are going to be required
20 to achieve a certain level of health.

21 So in that regard, I think your concern
22 about there -- that the issue of efficiencies of use
23 for environmental purposes not being addressed, I
24 think certainly in the restoration program, it will
25 be.

72

1 Now, that doesn't take into account huge
2 other areas throughout the state where I'm sure there
3 are concerns from ag in particular about uses of water
4 and refuges, for example. That's kind of out of our
5 scope. But in terms of the Delta restoration,
6 ecosystem restoration component of the program, I
7 think that will be built in.

8 MR. HALL: If I may respond quickly. I
9 appreciate that, Mary, and I'm glad that the
10 restoration group is working on that aspect of it.

11 But as you know, the geographic scope of
12 the problem area is the Delta. The geographic scope
13 of CalFed's charge with respect to the activities that
14 affect the Delta is the entire watershed. And I think
15 there are activities within the watershed that will
16 affect the Delta ecosystem, including environmental
17 diversion, in particular for refuges, and they ought
18 to be examined simply because it's a use of water
19 within the watershed that could impact the Delta
20 ecosystem and the water-supply reliability and all the
21 other features that we are charged with examining.

22 MS. SELKIRK: Well, I agree, because I
23 think that if we're -- if our commitment is to
24 increasing the utility of a unit of water in every
25 activity for multiple benefits, that means that in

73

1 some respect this issue has to be included because I
2 think that's how you develop a more true cost of water
3 for the state --

4 CHAIRMAN MADIGAN: Lester?

5 MS. SELKIRK: -- for Delta users.

6 MR. SNOW: Yeah, I just wanted to
7 specifically point out that, in fact, there is a
8 process going on to develop guidelines for wetlands
9 water management to address the refuge issue because
10 that is a big issue and is in fact part of the
11 program. So that is underway.

12 CHAIRMAN MADIGAN: Richard?

13 MR. IZMIRIAN: Okay. I think it may be
14 possible to apply an efficiency model to refuge
15 management, but in most cases water is the habitat,
16 not necessarily the water for the habitat; it is the
17 habitat. In that case, it doesn't really make much
18 sense to use an efficiency model in talking about
19 that.

20 So I would disagree with Mary that the
21 adaptive management model is the best way to look at
22 water for the environment, since water is the
23 ingredient.

24 CHAIRMAN MADIGAN: Thank you.
25 Hap?

75

1 efficiency is a proper place to address them because
2 water-quality standards are.

3 CHAIRMAN MADIGAN: All right. Let me
4 open this up. Now I have one note that Ronnie Cohen
5 wants to speak on this issue.

6 Ms. Cohen?

7 And then if there are other members of the
8 audience, this is an appropriate time. Again, when
9 you have a chance, fill out one of the cards so we
10 have your name and address.

11 Identify yourself and your organization at
12 the microphone. Good morning.

13 MS. COHEN: Good morning, almost good
14 afternoon. Ronnie Cohen from NRDC.

15 I'd like to support a lot of what I heard
16 here today about the need to expand the scope of
17 issues being addressed by the water-use efficiency
18 work group to include not just issues of technical
19 efficiency but to look at economic efficiency; how
20 we're using water in the state, are we getting the
21 best use out of it? So we should be looking at not
22 just urban and agricultural water conservation but
23 also conjunctive use, permanent land retirement,
24 temporary fallowing.

25 While CalFed has stated a preference for

74

1 MR. DUNNING: Well, I just had a
2 question about the terminology for Rick. In that
3 fourth category talking about environmental
4 diversions, is that limited to diversions, strictly
5 speaking a diversion out of the system for a refuge,
6 for example, or does that encompass instream flows
7 which are undiverted?

8 MR. SOEHREN: It was my understanding
9 that we -- it would look at environmental diversions
10 when you're taking water out of the stream either to
11 manage and support a refuge or that sort of use, not
12 the instream flows.

13 MR. DUNNING: Thank you.

14 CHAIRMAN MADIGAN: Steve?

15 MR. HALL: This is intended to close
16 the issue, perhaps a vain hope, but we'll see.

17 I think there are clearly some questions
18 about instream uses and whether the water for --
19 dedicated for instream uses is an appropriate amount
20 and appropriate timing. But those, I agree, should
21 not be dealt with in the classic efficiency models.
22 Water quality standards are set in part to address
23 those sorts of issues.

24 So while I think there are clearly some
25 issues to be addressed there, I don't think water-use

76

1 relying on market mechanisms, and we support that
2 preference, I think we need to recognize that there
3 are a variety of factors that are distorting our
4 reliance on markets.

5 A lot of water for agriculture in this
6 state is not measured. A lot of it is not priced
7 volumetrically so that users are not receiving
8 accurate market signals about their water use. So
9 we're relying on a market system that is going to have
10 some problems.

11 Also, most of the agricultural water users
12 are getting vast subsidies for their water, so that is
13 also distorting any reliance on market mechanisms. So
14 while we support the use of market mechanisms, we do,
15 as Ann Notthoff pointed out, need to also incorporate
16 regulatory approaches.

17 I also want to encourage CalFed -- I know
18 you've heard a lot on this subject -- but to look at
19 land retirement as part of the water-use efficiency
20 program.

21 We don't think that land retirement is the
22 only tool for improving water-use efficiency but it is
23 a tool, and an important tool. It is not the highest
24 valued use of water in this state to be irrigating
25 marginal quality farmlands that are contributing to

77

1 water-quality problems. We need to recognize that
2 land retirement will have water-quality impacts, but
3 will also affect water-supply reliability and the
4 ecosystem restoration.

5 Assuming that -- CalFed seems to be being
6 assuming that land retirement is going to be happening
7 anyway, as a result of these other efforts that
8 they're going to be making. However, that's going to
9 limit your flexibility. You may be able to achieve
10 more of your objectives with a targeted land
11 retirement program where you can get water savings
12 along with habitat and other ecosystem improvements,
13 as opposed to just relying on the market and letting
14 the chips fall where they will.

15 And the impact of land retirement, which
16 you're assuming is going to happen anyway, are going
17 to have to be accounted for in your impact analysis.
18 So at some point in this process you're going to need
19 to say, how much land you're assuming is going to be
20 retired, whether it's as a result of a targeted land
21 retirement program or as the result -- as the
22 incidental result of these other efforts that you're
23 making.

24 And so I think it makes a lot of sense to
25 address that issue head-on and look at the water

78

1 quality, water-supply reliability, and ecosystem
2 impacts of that land retirement. And if you do a
3 targeted program, you have a lot more control and can
4 address some of the potential community impacts and
5 other issues and concerns that people have brought up.

6 Alex has said that there's a problem when
7 we start to decide where it's more efficient or
8 desirable to use water in this state, but I think we
9 need to recognize that we've done that all along.
10 That we've had these -- this pattern of water
11 subsidies to develop the west, the west has now been
12 developed, and we can and should make policy decisions
13 about where we want this valuable resource to be used.

14 And finally, I would like to support what
15 Richard said at the very beginning that I think got
16 lost in this -- in the rest of this discussion, which
17 is I think a very important step for CalFed and for
18 the work group is to connect these issues of water-use
19 efficiency and water management to our larger goals of
20 ecosystem restoration, water-supply reliability and
21 water quality. And I think that that will help to
22 bring some focus to the discussion. I would like to
23 support that comment.

24 Thank you.

25 CHAIRMAN MADIGAN: Thank you.

79

1 Yes, sir.

2 MR. ZUCKERMAN: Thank you. My name is
3 Tom Zuckerman. I represent the Central Delta Water
4 Agency. I apologize for not having signed the card.
5 You know, I agree generally with the
6 agricultural point of view on this subject but I'm not
7 going to re-debate that with you. I think the problem
8 that you're running into is -- we've witnessed this in
9 a number of different forums -- is that you're
10 beginning to become the axe shop, you know, and every
11 axe that needs to be ground and sharpened in a water
12 deal is at your doorstep at this point, which
13 ultimately will make your opportunity to solve these
14 problems impossible, particularly in the time frame
15 that you're talking about.

16 And what I mean by that is that if -- as
17 I've read in some of the correspondence from Lester
18 back to people who have written letters, the goal here
19 is to figure out how to solve the Bay-Delta system. I
20 think that really needs to remain your primary focus.
21 And when you start to bleed over into other issues
22 which imply an allocation of the remaining water
23 supply amongst agricultural or urban uses or something
24 else, some other environmental use that isn't directly
25 connected to the Bay-Delta system, you slop over into

80

1 these issues.

2 Water transfers is a good example of it. I
3 don't know why you need to be involved in the issue of
4 water transfers. I mean, once the fix for the Delta
5 is determined, there are plenty of computer
6 programmers and so forth that will then determine what
7 the available supply is from -- whether it's from
8 export or upstream or whatever the case might be, and
9 those debates can continue. I don't think you need to
10 get involved in this issue.

11 But the problem is that when you start to
12 address issues like supply reliability, which really
13 isn't -- shouldn't be a part of the debate, then you
14 get into the water transfers and the various value
15 judgments that people are debating here.

16 Stick to business if you expect to solve
17 the Bay-Delta issue and not get yourself sucked into
18 the axe-grinding business of all these other issues
19 which we've all been involved in for several
20 generations and are going to be for some time into the
21 future.

22 I think everybody's point of view is
23 correct, but limit yourself to the issues that you
24 really need to solve here because you're not going to
25 be able to solve them all. And addressing them all

81

1 just dooms the opportunity for success. You know, if
2 you have to make the decisions to whether people are
3 going to eat or not, I don't think that's your task.

4 The task is to figure out how to fix a
5 system that's been badly degraded and let the chips
6 fall where they may. Quite some time ago, I made the
7 suggestion that what you should really be looking at
8 is some sort of a safe yield concept for the Delta and
9 go back to that and say, you know, how much of this
10 water is necessarily devoted to this system in order
11 to restore it to some measure of economic and
12 environmental and recreational health, which are the
13 goals. And you get lost in these other debates and
14 you're doomed before you get started.

15 Thank you.

16 CHAIRMAN MADIGAN: Thank you.

17 Yes, sir.

18 MR. McCLOUD: Good morning, almost.
19 I'm James McCloud from (inaudible) Irrigation
20 District. I'm the president of the board. We were
21 formed in 1921. We get water out of the San Joaquin
22 River, and we also get water from CDP.

23 I'd like to point out that ten years ago
24 there was a big flap about if these farmers -- if
25 they'd only save ten percent of their water, all of

82

1 our problems would be solved. Well, ten years later
2 farmers are not using -- they are not using ten
3 percent of the water they did ten years ago. So we
4 have saved ten percent of our water. And it certainly
5 isn't enough.

6 And there's a big flap out there about if
7 these farmers can only save more water, all of our
8 problems would be solved. We're trying like heck out
9 there to save more water, to be more efficient in
10 everything we do. The lady on the end is right. We
11 have some things that we can do. But it's not her
12 money. It's not her time. It's ours. And we're
13 trying our very best to do this.

14 And I'm highly insulted that there isn't
15 any recognition about the efficiency we do have out
16 there. We are very efficient. We can do better, we
17 will do better, we are doing better. To attack us
18 like you are attacking us is really, really out of
19 place. It's not good for California. It's not good
20 for the nation.

21 Yes, we were subsidized -- we call it a
22 subsidy, but if you're talking about the federal
23 water, we're complying with the law. And the law says
24 when the federal projects are completed, then we have
25 to pay the capital cost on them. It's never been

83

1 declared completed. So do you want to put that burden
2 on our back? Go ahead and do it.

3 And as far as subsidies are concerned of
4 water, why don't we cut out the subsidies for water
5 treatment plants and sewer plants? And why don't we
6 talk about everybody else's subsidies? This
7 particular subsidy benefitted everybody in California
8 and everybody in the country because you all ate the
9 food.

10 We all don't get to ride the transportation
11 that's subsidized. We all don't get to use the water
12 treatment plants that are subsidized, or any other
13 subsidy. Food, everybody uses.

14 I think that -- well, there's another area
15 about reuse of water. And reuse of water we run into
16 a problem of marketing. There's a precept out there
17 that people that buy our food from overseas, that they
18 don't want us using tertiary treated water to grow our
19 food. We have a problem there. We need to address
20 that problem.

21 So I think that trying to solve our problem
22 with putting it on the back of ag is really not going
23 to work. And what's really happening is now you want
24 to put ag out of business. You talk about putting ag
25 out of business, we're losing 25,000 acres of ag every

84

1 year anyway, so how much do you want us to lose? How
2 much do you really need from ag? How much water do
3 you really need from ag? How much water does it take
4 to grow a fish? What are you really talking about?

5 I don't really think you know. I think
6 that there's just a frantic effort out there to solve
7 a problem with the water that's stored at this
8 particular time, and the only water that you're gonna
9 have for the future is from agriculture. So if that's
10 the track of what you're doing, and you want to wreck
11 agriculture, have at it.

12 CHAIRMAN MADIGAN: Thank you. I
13 appreciate your comments. If you feel injured by what
14 has taken place in the past, I want you to know that
15 you're in good company. Everybody around this table
16 is here because they represent a group who feels
17 injured by what has taken place in the past. Some of
18 them are even correct in that assessment. But that's
19 why they were invited here, and hopefully the kinds of
20 concerns that you express are being represented here
21 as a part of the process.

22 MR. McCLOUD: I forgot to mention that
23 there's a big block of water out there that's not
24 talked about in water efficiency, and that's the
25 so-called environmental water.

85

1 CHAIRMAN MADIGAN: Okay. Thank you.
 2 MR. McCLOUD: And, you know, you need
 3 to microscope that just as much as you do the city and
 4 the ag.

5 And I want to comment about the cities,
 6 they've done a wonderful job about improving their
 7 efficiency --

8 CHAIRMAN MADIGAN: Kind of wrap it up
 9 here.

10 MR. McCLOUD: Right. Okay.
 11 But that isn't going to solve the problem.

12 CHAIRMAN MADIGAN: Okay, thank you.
 13 Yes, sir.

14 MR. SHINN: I'm Brad Shinn with Farm
 15 Water Coalition.

16 I wanted to make a comment earlier about
 17 the issue that was on the table of water-use
 18 efficiency. I think that broadening it is helpful, as
 19 long as we keep the eye on the ball and not subject
 20 ourselves to a problem of interpretation.

21 One of the concerns that I had was whether
 22 or not we're going to be using efficiency issues to
 23 determine which is the highest and best use. As long
 24 as we have discussed here that this issue is on the
 25 table as a way of making the most bang for our buck,

86

1 getting the most benefits that we can out of a drop of
 2 water, I think we continue to support that.

3 CalFed is not the first agency to discuss
 4 efficiency, and, as a result, as Steve Hall mentioned
 5 earlier, urban agencies and agriculture agencies have
 6 been working on water-use efficiency for some time,
 7 and we think that this expansion from the agricultural
 8 standpoint helps that to fit into CalFed's programs.

9 With respect to the comments of some of the
 10 public speakers, I'd just like to point out that, one,
 11 agriculture believes very strongly that land
 12 retirement in the issue -- in the way that CalFed has
 13 handled the issue has been correct so far. It should
 14 be off the table, it's not an efficiency measure.
 15 If we think we want to get away from
 16 whether or not CalFed should be deciding who eats and
 17 how much, that's a similar issue. It's a major public
 18 policy issue and it belongs where CalFed has put it,
 19 off the table for now.

20 With respect to the issues of subsidies
 21 have been raised, I'd only point out that before
 22 CalFed agencies begin to go down that path, that they
 23 enter into a full substance debate of those issues. I
 24 think it's already been raised by the former speaker.
 25 No one in this table, around this table, is free from

87

1 the issue of subsidies.

2 I only raise that to the point that it
 3 can't be used as an issue to suggest that somebody has
 4 an advantage or a disadvantage. We are all subject to
 5 it. I think many of us support the Proposition 204,
 6 and that's clearly nothing more than a subsidy -- a
 7 subsidy to resolve the problem that we have.

8 So from that standpoint, if CalFed wants to
 9 go down that path, I'm clearly happy, and the
 10 constituents that I represent are clearly happy to
 11 engage in that debate, and I think we would like to
 12 have that if that's what CalFed has on its agenda.

13 CHAIRMAN MADIGAN: Thank you.

14 Yes, ma'am?

15 MS. SMITH: Thank you, Mr. Chairman.
 16 My name is Polly Smith, and I haven't filled out a
 17 card. I will, if you wish.

18 CHAIRMAN MADIGAN: Thank you.

19 MS. SMITH: I will try to be brief, but
 20 I did want to discuss water-use sufficiency.

21 I've been around water for about 25 years
 22 now in a variety of ways, and have done a lot of work
 23 in conservation and reclamation in the past, and I've
 24 been on a water board in the past and the regional
 25 board in the past. Now I work with Roberta in the

88

1 League of Women Voters, and also I'm on the board of
 2 Save San Francisco Bay, and I appreciate all the work
 3 that you are doing.

4 I'm also working some with the water
 5 efficiency group, not the group itself but with the
 6 Environmental Water Caucus and the Urban Conservation
 7 Council.

8 I certainly agree with your broad
 9 definition of water efficiency. I appreciate what Stu
 10 has said; maybe you can call it efficient water
 11 management, whatever, combine the two, because it is
 12 more than just the technical physical and it does
 13 involve these other tools. And tools they are.

14 I wish to support including land retirement
 15 as a water efficiency tool. I think actually this can
 16 contribute to the CalFed solution. I don't see it as
 17 just a drainage water-quality issue. I think it also
 18 can be a tool for efficient use. If water is being
 19 used in an area where it's not efficiently applied, or
 20 it's not an efficient place to grow a certain crop,
 21 that should be taken into consideration. I hope all
 22 this can be done as much as possible in a voluntary
 23 manner, but certainly guidelines and requirements by
 24 CalFed can help where it's necessary.

25 I wanted to speak, Rosemary, to your

89

1 concern about Roberta's comments at the meeting last
2 week. The efficiency draft paper has many more
3 carrots in it than mandates and penalties, and I'll
4 let her speak to that at your next BDAC meeting
5 because she knows it very well.

6 But the hope is that every urban agency
7 will be -- there will be so many carrots and so many
8 desirable reasons to be part of that process that it
9 will be disadvantageous to them not to be involved,
10 rather than strict mandates.

11 Thank you. That's all for now.

12 CHAIRMAN MADIGAN: Thank you very much.

13 Sir?

14 THE WITNESS: I guess it's good
15 afternoon.

16 CHAIRMAN MADIGAN: It is indeed.

17 MR. OTTEMOELLER: I did sign the sheet.
18 My name is Steve Ottemoeller from Westland Water
19 District. I'd like to give a perspective from an
20 inefficient agricultural water -- subsidized
21 agricultural water user who hasn't given anything up.

22 That's a joke.

23 Believe it or not --

24 CHAIRMAN MADIGAN: Most people laughed.
25 I would say about three to two.

90

1 MR. OTTEMOELLER: In no real particular
2 order, and I'll try not to repeat things that other
3 people have said, other than to possibly just support.
4 I do, believe it or not, agree fairly wholeheartedly
5 with Tom Zuckerman's assessment of the role of
6 transfers in this process.

7 Water transfers are going to happen.

8 If it is a market type of process, the CalFed solution
9 has to incorporate the use of transfers; you have to
10 provide for transfers. But you certainly shouldn't
11 spend a lot of time trying to predetermine their role,
12 exactly how they get used.

13 Frankly, the more you rely on water
14 transfers to kind of allow for real allocation of
15 water or an incentive for efficient use, the bigger
16 the system is that you have to provide for so that you
17 can accommodate the variances in transfers. They
18 don't all happen as efficiently as, let's say, you can
19 plan a single water project operation. So I'd
20 encourage you to accommodate transfers but not try to
21 figure out exactly what and how they'll be used in the
22 solution.

23 With regard to the issue of environmental
24 efficiency, efficient use of the environmental water,
25 first of all I'd like to disagree with the concept

91

1 that you only look at efficient use of diverted --
2 water diverted for agriculture. That kind of limits
3 the perspective. I think there are a lot of other
4 efficiencies.

5 Now, it's -- I know it's very difficult to
6 try to quantify those, but when I'm thinking of
7 efficiency of environmental water use, I'm thinking in
8 terms of you need to make sure that if you're
9 dedicating water to an environmental purpose, that it
10 is in fact going to solve the problem that you're
11 trying to solve.

12 Which gets to the -- what we have called
13 category three in the past, the other factors that are
14 involved with the health of the Delta. And I know
15 that's an ecosystem restoration issue, but just by way
16 of example, to the extent that it's proposed that more
17 water is required for certain fish species, you need
18 to make sure that if you're providing more water, that
19 it's going to have a benefit, that it wasn't something
20 else that was causing the problem, that it wasn't
21 competition for food in the Delta as has been
22 identified a couple of weeks ago at the estuary.

23 The invasive species to the estuary
24 contribute a lot to the problem. I don't know if we
25 know exactly what that is, but my perspective on

92

1 efficient use of environmental water is that because
2 it's so critical, what happens to the water and who is
3 affected by the competing uses of water, we need to
4 make sure that there is a relative certainty that by
5 using water for an environmental purpose, you're going
6 to get the kind of result that you're looking for.

7 I've probably said this before, but I'll
8 say it again, because I think it bears repeating. The
9 whole issue of water-use efficiency, as I understand
10 it, is to make sure that everybody agrees that all the
11 water that's being apportioned out of this process is
12 being used efficiently.

13 I've said it, as I said before, you will
14 not affect the size of the solution by concentrating a
15 whole lot on efficient use of water in the export
16 areas and elsewhere. You're working with the margins
17 there, and I think as that is recognized, it will make
18 it a little easier to focus on what the solution is.

19 Just a couple of comments. I mentioned the
20 state of the estuary conference, and this kind of gets
21 to the -- in the area of just because we're paranoid
22 doesn't mean they're not out to get us. A couple of
23 the presentations at the state of the estuary
24 conference are illustrative of the kinds of concerns
25 that we have.

93

1 There was a -- and I apologize; I don't
2 have names of the presentations, but there was a
3 presentation that dealt with the nutrients and carbon
4 source. And the speaker presented some graphs that
5 showed that the availability of nutrients for certain
6 types of organisms dropped precipitously with the
7 advent of the Asian clam. And there was some very
8 clear documentation of that in his graphs.

9 Right at the end of his topic he put up a
10 series of overheads that showed the Bay-Delta and some
11 directions of water in the Bay-Delta, and although he
12 did not make a statement about the impact of water
13 diversions or how it was even related to the rest of
14 his talk, the clear implication was that the water
15 projects are related to the whole problem of the food
16 chain.

17 Maybe he has a connection, but he certainly
18 didn't make it in his speech. I'm sure that a lot of
19 people there were left with the impression at the end
20 of his discussion that the project had a whole lot to
21 do with the food chain problems that he had previously
22 identified as being a result of or very closely
23 connected with the Asian clam.

24 The second one that I'd like to refer to
25 was a discussion on wetlands, and they had done some

94

1 analysis of the sediments in the wetlands and the
2 pollens. And it was -- I guess they had gone far
3 enough down. They were into hundreds of years' worth
4 of sedimentation, and there was a slide that showed
5 the relative abundance of three different types of
6 pollens. And two of them kind of buried inversely,
7 and there was a period of several hundred years in the
8 past when one certain pollen was in very low
9 percentage of the total pollens and another one was
10 very high. And then that reversed itself for a while.
11 And then in the last century, during this century, it
12 reversed itself again.

13 And somebody asked him the question to what
14 do you attribute that latest reversal. And his
15 response was that it was probably related to irrigated
16 agriculture.

17 I'd like to see the efficiency of the
18 irrigated agriculture in this area that was occurring
19 several hundred years ago for several hundred years.

20 It's those kinds of responses and comments
21 that in effect make us paranoid about people's ideas
22 about the solutions.

23 So I expressed my paranoia and I'll leave
24 it at that. Thanks.

25 CHAIRMAN MADIGAN: And expressed it

95

1 well. Thank you.

2 Yes, sir.

3 MR. JACKSON: To follow up on the
4 paranoia from a bit farther uphill. My name is Mike
5 Jackson, I'm from the -- I'm an attorney for the Rural
6 County -- Regional Council of Rural Counties.

7 In terms of the categories that you have on
8 board, the area of urban water conservation, which has
9 not been talked about but from my experience in
10 Southern California is a tremendous area in which
11 water could be saved by proper conservation, is in the
12 area of xeroscaping. It's going to be very difficult
13 to convince those of us in the north that we should be
14 transferring water south to take away from the
15 environment and the agriculture in the north in order
16 to water lawns on one-acre lots in Victorville. So it
17 seems to me that the urban water conservation area
18 should be looked at very closely.

19 The thing about agricultural water-use
20 efficiency, and there is water use that can be gained
21 by more efficiency in agriculture, and that's mostly a
22 money investment, I think, from the urban California
23 people to agriculture to allow that to happen. But
24 when you do it in the context of our counties, the
25 waste in agriculture is what our environment lives on.

96

1 And so before you begin to take a look at
2 ag water in transfers as an efficiency, you've also
3 got to take a look at the -- you know, your problem
4 set is a little small area in the Delta but your
5 impacts of the solutions on the environment are over
6 70 percent of the geographical area of California.
7 And so when you begin to look at this unit and how
8 you're going to use it, you need to realize that for
9 better or worse, agriculture in the environment and a
10 large portion of the eco system in California are
11 interrelated.

12 We would like to make that more efficient
13 for both agriculture and the environment in the
14 northern part of the state, but I'm worried about the
15 narrowness of your water-use efficiency language. And
16 I would like to see you spend a lot of time on that
17 because I think that's going to determine just exactly
18 what we have to do in the way of transfers, and the
19 way of additional water, and the way of flow, in order
20 to take care of the fish in the Delta.

21 Thank you.

22 CHAIRMAN MADIGAN: Thank you.

23 All right. Judith, you had a comment.

24 MS. REDMOND: Yeah, I had a comment.
25 It seems like we've talked about a number of things.

97

1 I think Alex brought up a number of questions about
2 really the scope of our BDAC discussion. I wanted to
3 just comment on that.

4 I also want to comment briefly on the land
5 retirement question, and finally on the scope of the
6 water-use efficiency group which I chair. But I know
7 we're all going to go to lunch soon so I'm going to be
8 brief.

9 CHAIRMAN MADIGAN: Take your time.
10 This is important.

11 MS. REDMOND: In terms of the concerns
12 about water scarcity and food production, I think -- I
13 really appreciate the need to balance the focus of our
14 charge with also an appreciation for sort of the
15 political reality that exists out there. I really
16 appreciate that we're trying to focus and deal with
17 the Bay-Delta ecosystem, but I think it would be
18 foolish to not understand that these issues of
19 sustainability will impact us if we're talking about
20 20, 25 years down the road.

21 And so while I know it's difficult for us
22 to talk about those things in this venue, I appreciate
23 that they're are being brought up, in fact, because I
24 think that it would be foolish for us not to
25 understand that water scarcity is going to be a

98

1 reality over the next 25 years. And just as ignoring
2 ecosystem stability did not work, it wasn't a
3 politically viable approach, ignoring the political --
4 ignoring the fact that water is an important part of
5 producing food and that it's necessary for agriculture
6 would be a big mistake.

7 So I appreciate that those things are being
8 brought up, and I think that if we care about the
9 durability and sustainability of this solution, we do
10 need to keep those in the back of our mind.

11 The second thing that I wanted to mention
12 is that I had several conversations last week that I
13 won't go into in detail, but I think people should
14 know about them. First was with a fellow named Bob
15 May who is with -- the program manager since February
16 at the Bureau of Reclamation for their land retirement
17 program. He took over from Mike Delamore who held
18 hearings in 1994 that I went to several of those.

19 The bureau in fact does have a land
20 retirement program that's part of CVPIA that is going
21 to start -- in fact, their guidelines are pretty much
22 ready, and within the next couple of months they are
23 going to start implementing their program. They are
24 still developing rules and regulations.

25 The second person that I talked to was a

99

1 fellow named Earl Cummings at the Department of Water
2 Resources who's the project coordinator for their land
3 retirement and drainage relief program. Again,
4 they -- because of the Hill bill, they also have a
5 program.

6 And I won't go into the focus of their
7 programs or the goals of their programs, but I think
8 that for folks here who want to put land retirement
9 back on the table, it would be of interest for you
10 folks to talk to them because there's a number of
11 assumptions, I think, about what would happen to the
12 water if land was retired, what would happen to the
13 land if it were retired. That should be questioned.
14 It's not entirely straightforward.

15 For example, that there would be a
16 mechanism if land were retired for water to suddenly
17 be available for wildlife refuges or for the
18 environment. And I think that has been an assumption
19 on the part of the environmental community. I think
20 it's wrong, and both of these two people questioned it
21 quite strongly whether or not that was indeed the
22 case.

23 The final question, which was where we
24 started, was the question about the scope of the
25 water-use efficiency work group which I chair. And it

100

1 sounds as if there's an agreement that this broader
2 management approach is going to continue to be
3 discussed within our work group, the one that brings
4 these issues of water marketing, for example, into the
5 purview of our work group.

6 I -- I feel comfortable with that. I think
7 that those issues need to be addressed. I have
8 concerns aside from my role as chair about water
9 markets, and I would like to see a discussion of water
10 markets take place that was careful. And I think that
11 the important players on that issue do come to these
12 work group meetings and so I hope that we can, you
13 know, continue to address some of the issues around
14 water marketing.

15 I do want to say, though, that the title of
16 my work group has been a real hang-up ever since the
17 beginning. Setting -- standing aside from my role as
18 the chair of the work group, I'll say something that I
19 can't say there, but I think that this idea of water
20 marketing as -- the idea that it is more efficient to
21 send water to Silicon Valley just because people there
22 have more money than it is to raise crops, I disagree
23 with that. I think that it is not -- I think that
24 the markets do not necessarily make wise decisions
25 about where a resource like water should go.

101

1 And so I think that this idea that we're
2 talking simply about efficiency has been a hang-up
3 since the beginning. And I think that if we're going
4 to continue to talk about water markets and some of
5 these other management issues, it really might be a
6 good idea to address that head-on and admit that we're
7 talking about a broader set of tools than simply
8 efficiency tools.

9 Thanks.

10 CHAIRMAN MADIGAN: Thank you.

11 Lester?

12 I'm sorry. Rosemary?

13 MS. KAMEI: I wanted to make a comment
14 since Silicon Valley is in my back yard. But I do
15 agree with Judith that, you know, just reallocating
16 water to the person who has the most money is
17 improper.

18 I do think my point for bringing up
19 Roberta's discussion on the water-use efficiency group
20 was that there's not a lot of information out there
21 yet. I realize that the information that is there is
22 in draft form. There are a lot of carrots out there.
23 There are a lot of people who are doing things whether
24 it's ag, urban, and the environment.

25 But we haven't really talked about what is

102

1 everyone doing, where are we at? People are at --
2 different groups are at different stages. And so I
3 think that we need to bring that discussion perhaps in
4 your work group. And, you know, I'm sorry I haven't
5 attended your meetings, but I think that that's
6 probably the place where it should happen where we can
7 say, yes, efficiencies are occurring in the
8 agricultural community, in the environmental
9 perspective of the restoration program, and these are
10 some tools that we're looking at, so that we're not
11 kind of operating "Are you doing this, are you not
12 doing this," we get back to the paranoia as to who's
13 going to be pointed at.

14 So, you know, it's not -- it's not going to
15 happen in a hopefully reallocation because somebody
16 has the most money.

17 I guess it's time for lunch.

18 CHAIRMAN MADIGAN: Anybody else
19 worried?

20 Judith?

21 MS. REDMOND: I wanted to mention this
22 to you separately and I need to talk to you about it,
23 Rosemary, but the presentation that Roberta made of
24 the Bay Area Economic Quorum was not a presentation
25 about the water-use efficiency work group. She

103

1 described a process that is outside of that work
2 group.

3 I was in the audience and she described
4 the process that's been going on among the urban folks
5 to move this urban water-use efficiency concept. And
6 it was unfortunate that because it was put on the
7 agenda as a report from the water-use efficiency work
8 group, people got the idea that the water-use
9 efficiency work group wasn't discussing agricultural
10 or environmental efficiencies.

11 So just to set the record state here, her
12 report was a report about a process that was not --
13 it's a peripheral process to the water-use efficiency
14 discussion of BDAC.

15 MS. KAMEI: And I think my point is
16 really to bring clarity to some of this because it can
17 be very confusing, and if you're an individual who has
18 not been part of the process, who is just entering in
19 because you're on the periphery like the business
20 community, then we need to be very careful. And I
21 think that when we talk about the public outreach
22 program, we need to be very sensitive to the
23 information that's being brought out to the other
24 communities.

25 CHAIRMAN MADIGAN: I am struggling to

104

1 bring this to a close, and the next subject is in fact
2 the afternoon, water transfers. If there is anybody
3 else that really needs to say something right now, I
4 can do it briefly.

5 Yes, ma'am. Briefly.

6 MS. COLE: Very briefly.

7 CHAIRMAN MADIGAN: Okay.

8 MS. COLE: I'm Linda Cole from Valley
9 Water Protection Association. We are in Butte County.
10 And I wanted to thank you for mentioning that there is
11 a social value that should be assigned to water as
12 well as just a crop value or value for urban
13 development in other areas.

14 What I'd like to also remind you is that in
15 urban areas, our aquifer and the water table, our
16 dependable water table is our delivery system. This
17 is a public health issue. When you are assigning
18 values to water, you need to be thinking about what
19 the cost will be to urban areas that may have to then
20 develop into an infrastructure for delivering water to
21 vastly spread-out areas.

22 When you're dealing with urban areas, maybe
23 that infrastructure is cost effective. When you're
24 dealing with countrysides where homes may be four and
25 five miles apart, the infrastructure would not be cost

105

1 effective.

2 And, please, as you look at water
3 transfers, look at the cost to export areas of the
4 social engineering that would be involved, the
5 densities that would have to be changed for the
6 lifestyle to justify building that kind of
7 infrastructure, and the environment that you would be
8 shifting.

9 Thank you.

10 CHAIRMAN MADIGAN: Thank you.

11 Lester?

12 MR. SNOW: Feeling a little bit like a
13 cow approaching retirement.

14 CHAIRMAN MADIGAN: That was good.

15 MR. SNOW: I will remember that
16 forever, Alex.

17 I want to make a two-minute observation
18 here that I think actually is important, and hopefully
19 we can do something about it.

20 But as a product of dealing with a problem
21 that is so great in scope and complexity, we have
22 divided it up into a lot of pieces. The biggest
23 pieces are the components we refer to, and each case
24 of a component there is all kinds of elements. In
25 fact, in the ecosystem program I think we're up over

106

1 50 ecozones that we're looking at in developing
2 strategies. So each of the components has all of
3 these elements.

4 And what has happened over the last 60
5 days, in my opinion, first within the CalFed family, I
6 just mean the agency people, and then with some of the
7 work groups, and then I think we've seen it here with
8 this conversation, is that as people discuss one of
9 the specific components or elements, everybody's
10 trying to get balance and equity and all of the
11 solution principles within that single component, and
12 you cannot do that. It's the package of the
13 components. It's the integration of all of different
14 actions that give us the balance that we're looking
15 for.

16 Now we have to some extent intentionally
17 avoided a lot of discussion about how all these pieces
18 fit together and how they can interact because we
19 didn't want to be pre-decisional. We didn't want to
20 lead people down a certain path.

21 But I think that because of these
22 discussions, it's going to be incumbent upon us,
23 perhaps at our next meeting, for staff to come in and
24 start talking about how can these pieces fit together?
25 How does upper watershed management fit into the

107

1 solution? How does north of Delta storage tie into
2 all these objectives? Why does restoration on Butte
3 Creek fit into this strategy?

4 I think we need to start talking about how
5 these pieces can fit together because we cannot find
6 complete balance and equity in every single one of the
7 components instantaneously. So I think we always have
8 to have the backdrop that each of these things are
9 being designed to fit into an overall package.

10 So at the November meeting, I hope to have
11 some nonleading, nonpredecisional discussion about how
12 these pieces can fit together and meet the solution
13 principles.

14 CHAIRMAN MADIGAN: All right. Thank
15 you.

16 Lunch is downstairs for the BDAC members.
17 Let's try to be back at ten after one. We are in
18 recess.

19 (Lunch recess was taken from 12:31 to
20 1:23 p.m.)

21 CHAIRMAN MADIGAN: Members of the BDAC,
22 please take their seats.

23 Good afternoon, welcome back. You will
24 recall that we reversed the order of a couple of items
25 this morning and so we are now going to go back to

108

1 Item No. 3, the role of water transfers as a part of
2 the Bay-Delta solution, and Lester is going to lead us
3 through this one.

4 We had some concerns expressed at the
5 previous meeting regarding market response, no net
6 loss question, in-basin versus out-of-basin transfers,
7 is there a role for the model Water Transfer Act here.
8 I mean, there are a number of important issues. And
9 what we should try to do is make sure that we have
10 those issues as carefully and appropriately defined as
11 we can today.

12 Lester, you're on.

13 MR. SNOW: Okay. I want to simplify
14 this a bit because I'm not sure any of us want to go
15 through all the same issues that we did this morning.
16 And, in fact, I think I want to play off a bit of the
17 comments that Tom Zuckerman made and Steve
18 Ottemoeller, just in terms of perhaps it's not our job
19 to solve the state's historic disputes about transfers
20 and how they take place, but what's real important and
21 what we included in the package was, in fact, there
22 are state and federal policies on water transfers.

23 And, in fact, as has been stated this
24 morning, there are transfers going on, transfers will
25 go on, the kind of programs we implement will have

109

1 some effect on that. And so I think it's important to
2 look at the base issue, the base policy, with respect
3 to water transfers that exist and what we've assumed
4 in the program.

5 A lot of debate will have to take place as
6 to the exact mechanisms and how you make sure that
7 different conditions are met, and maybe that takes
8 place in another arena, a legislative arena. I'm not
9 sure how far we have to wade into that, as Tom
10 Zuckerman indicated. Maybe we don't. Maybe we just
11 need to recognize that it's there.

12 But in doing that, I think it's -- we need
13 to be comfortable with what exists as water policy.
14 And if you looked at the governor's policy, as well as
15 the policy within CVPIA, there is basically an
16 indication that transfers should happen, but you need
17 to protect for certain things. There needs to be
18 conditions, guidelines, a safety net to make sure that
19 they happen in the right way. Nobody is advocating an
20 unfettered free markets for water transfers. That
21 won't work, and it's not in the best interest of the
22 State of California.

23 So basically we kind of boiled it down to
24 these five conditions when we look at that policy, and
25 therefore what's embedded within the CalFed program,

110

1 it's water transfers, assuming that they're voluntary,
2 willing buyers, willing sellers, that you have
3 evaluated and accommodated any concerns with respect
4 to harm or impact to fish, wildlife, and habitat; that
5 you have considered the impacts on groundwater; that
6 it's not really a beneficial transfer if all that's
7 happening is you're depleting a groundwater resource;
8 that the person who is transferring the water, who
9 wants more water, is able to demonstrate high
10 efficiency; that they've actually implemented
11 water-use efficiency programs such as the BMPs in
12 urban and water use -- or efficient water management
13 practices in ag and that you have involved local
14 communities and local districts.

15 So as we stand here today, we have implicit
16 in our program that transfers will move forward, they
17 will be part of the water future of the State of
18 California, assuming that these things can be taken
19 care of.

20 So the fundamental issue right now for BDAC
21 is, is this a reasonable assumption for us to be
22 making at this point? In fact, the specific question
23 is we ask three specific questions. Is this a
24 reasonable approach, a reasonable way for us to look
25 at transfers? Are any of those conditions that I

111

1 mentioned unnecessary? And on the other side of it,
2 are there conditions that should be added to this?

3 So we're not looking for all the hows, you
4 know, what's proper piece of legislation, who should
5 do it, who should regulate it, but in fact from a
6 policy standpoint is this a reasonable way for CalFed
7 to incorporate water transfers into our program and
8 our thinking.

9 And I would open it up to comments or
10 questions at this point.

11 CHAIRMAN MADIGAN: Bob?

12 MR. MEACHER: Lester, in the handout
13 material on page 2, right before you have these three
14 questions, you asked -- you brought out the voluntary
15 basis without harm to local environmental resources,
16 without adverse impacts. No. 5 says with appropriate
17 involvement of local communities and water districts.

18 I would like, as one member of the
19 council, to see that changed to without unmitigated
20 significant social economic impacts to local
21 communities, as being more clear and concise with what
22 I think the intent of the language is.

23 Do you have a problem with that?

24 MR. SNOW: Okay. That's a good
25 comment. We can add that in. I think that's what's

112

1 intended, so --

2 MR. MEACHER: I think that would --

3 CHAIRMAN MADIGAN: Is that more clear?

4 MR. MEACHER: Does anybody have a
5 problem with that change on No. 5?

6 Thank you.

7 CHAIRMAN MADIGAN: One more time, Bob.

8 MR. MEACHER: Rather than "with
9 appropriate involvement of local communities and water
10 districts," to have it read, "without unmitigated
11 significant social economic impacts to local
12 communities."

13 CHAIRMAN MADIGAN: Okay, all right.

14 Fair comment.

15 Rosemary?

16 MS. KAMEI: I'd like to add under your
17 policy direction, the "to" and the "from" areas when
18 you're looking at it in terms of local communities,
19 you're looking at the communities that the water would
20 potentially be going to and from so that you cover
21 both communities on both sides, and include facility
22 operators. There may be the case where the transfer
23 would include other operators, for example, the CVP
24 or, you know, the (inaudible), how is it going to be
25 done.

113

1 I'd also like to see the inclusion of a
2 potential appeal process in the case of denials on
3 when you're considering water transfer, and its
4 relationship -- the relationship to a banking, what is
5 the potential relationship between water transfers and
6 opportunities for banking.

7 CHAIRMAN MADIGAN: Lester, do you want
8 to say anything?

9 MR. SNOW: Some of those clearly end up
10 in the operational area, a little beyond this policy.
11 But we can make a note of those because those will
12 become important at some point. The whole Wheeling
13 policy issue, which is rather hot right now in certain
14 parts of the state.

15 CHAIRMAN MADIGAN: David?

16 MR. GUY: Yeah, just one minor, I
17 guess -- well, first a general comment. Lester, I
18 think you're biting off the right amount, frankly, on
19 this issue. I don't think we want to go any further
20 than this. I think that would be a big mistake I
21 think as Tom Zuckerman indicated. So I think
22 generally, I think this is a good place for CalFed and
23 BDAC to be.

24 On No. 1, there on the first page, you talk
25 about protect the water rights of sellers, and then

114

1 you talk about transfers of real -- and I assume
2 you're talking about protecting other water right
3 holders. But I guess can we be a little more explicit
4 about that because I think that's where a lot of the
5 problems lie, is that other water right holders aren't
6 in fact protected.

7 MR. SNOW: Yeah, I would agree.

8 CHAIRMAN MADIGAN: Alex?

9 MR. HILDEBRAND: One of my points would
10 have been the one that David just made.

11 The other -- the problems that make us
12 very -- some of us very nervous about this is that if
13 all these things that you list here consistently
14 happen, it wouldn't be a big problem. But they don't.
15 As I said this morning, we've had a sample just in the
16 last couple of weeks of a substantial purchase which
17 disregards all of this. Wasn't even any notification
18 that people were going to be damaged. And it does
19 damage people with senior water rights other than the
20 water seller.

21 So some of us are very uncomfortable about
22 these transfers because of the fact that they don't
23 adhere to these things. We don't seem to have a very
24 enforceable method of seeing that they do. If it
25 occurred without even writing a FONSEI, (inaudible) if

115

1 they write a FONSEI that's illegal, we can at least go
2 to court. But we have to know about it. We don't get
3 notified. And so that's a big problem.

4 And then the other problem is the one I
5 mentioned this morning of the inconsistency between
6 land-use policy and water-sale policy. As I say, we
7 have land use that says you're going to keep some land
8 in agriculture, and then we have a water policy that
9 says, well, yeah, but you can take the water away so
10 it can't be used for agriculture.

11 So there's a big problem here and I'm not
12 sure what the answer is. But until we have some
13 assurance that these kinds of restraints will be
14 imposed and forced and people will be notified if they
15 may be damaged, it's hard to go along with it.

16 MR. SNOW: Maybe for those of you who
17 aren't into alphabets like Alex and I are, FONSEI is
18 not a character from Happy Days. FONSEI is a Finding
19 of No Significant Environmental Impact.

20 And the point that Alex is making is that
21 if in executing a water transfer somebody simply
22 issues a Finding of No Significant Environmental
23 Impact, then are you making sure that there's no fish
24 and wildlife impact? And are you making sure, in the
25 case of Linda Cole's concern, that there's no

116

1 significant impact to the other groundwater users in
2 the basin where the transfer is taking place?
3 And so that's a critical issue. If you're
4 going to have these as conditions, you have to make
5 sure that somebody is actually evaluating them every
6 time a transfer takes place.

7 MR. HILDEBRAND: Our experience is that
8 FONSEIs rarely make those findings.

9 CHAIRMAN MADIGAN: Hap?

10 MR. DUNNING: Lester, I think maybe
11 we're getting too far into this whole thing. I
12 understand that CalFed is taking the position that
13 facilitation of water transfers can be helpful as a
14 water management concept.

15 Water transfer is part of our law with
16 regard to water resources. There's a tremendous
17 amount that courts have said over the years that
18 California legislature has been seized with this
19 problem for a long time. There was a major statute
20 passed in 1980. There have been others since. There
21 are pending proposals for further statutory enactment
22 now.

23 I think we got to be careful in not sort of
24 crossing the line and getting into how we think a
25 rewrite ought to be with regard to water transfer law,

117

1 we're not rewriting area of origin protection law,
 2 we're not rewriting riparian rights law, we're not
 3 getting into lot of other things we shouldn't be.
 4 And I think maybe we're getting too far
 5 into this when we start looking at particular
 6 requirements for water transfers, and most of these
 7 things are now dealt with in the existing statutes.
 8 It's not just a matter of the governor's policy
 9 statement. That was simply a speech. The legislature
 10 has enacted law on most of these points.

11 MR. SNOW: Actually, I agree, and I
 12 think that's what Tom Zuckerman summarized this
 13 morning. And I think the reason I wanted to go ahead
 14 and point this out is because transfers has become a
 15 very sensitive issue, and I want to make it clear that
 16 implicit in the way that we are approaching this
 17 within our alternatives is that transfers will be
 18 taking place consistent with these conditions.

19 So it is a very broad policy statement, and
 20 I agree, I don't think we need to get into much more
 21 than this, other than understanding that this is the
 22 policy that's embedded in our alternatives.

23 CHAIRMAN MADIGAN: Mary?

24 MS. SELKIRK: I agree pretty much with
 25 all the comments made so far. I don't think we need

118

1 to go into any substantive development of water
 2 transfer language. So I wanted to ditto for the
 3 record to indicate that I agree with the principles
 4 that are up on the overhead, with the addition that
 5 Bob Meacher made with regard to strengthening the
 6 provision for addressing third-party impacts, which I
 7 think also includes environmental impacts
 8 CHAIRMAN MADIGAN: Stu?
 9 MR. PYLE: I think you find strong
 10 support for the transfer program in the agricultural
 11 area that I come from, that people are busy and
 12 looking for transfers, some of them to equalize water
 13 allocations within our area or to receive water in
 14 years of short water supply.

15 I agree with what Hap says, and your
 16 paragraph in the memo, in the book, probably should
 17 address the water code issues to endorse transfers in
 18 accordance with the established water code issue.

19 The one issue that has been a sticking
 20 point that seems to be unresolved in a lot of cases
 21 is -- in the terms of water district, is some of the
 22 movement towards transfers by an individual which may
 23 possibly be carried out separately or without
 24 reference to the overall water rights or contracting
 25 aspects of the water district within which that

119

1 individual's water originates, and that has been dealt
 2 with in proposed legislation and probably still needs
 3 to be cleaned up in the future, but that seems one of
 4 the main remaining things.

5 One other thing that I'd say is that there
 6 probably needs to be some clarification -- this is
 7 kind of beyond the BDAC thing -- but to make it easier
 8 to transfer between systems such as the CVP and the
 9 state water system or a private water system. I think
 10 CVP is moving that way now under the CVPIA. But we
 11 find a lot of opportunities that could occur if there
 12 was a little more freedom for individuals in one
 13 system to work with individuals in another system.

14 CHAIRMAN MADIGAN: Thank you.

15 Bob?

16 MR. RAAB: Lester, is this -- these
 17 five conditions that you've listed, are they pretty
 18 much closing the book on what the stipulations will be
 19 as far as CalFed is concerned on water transfers, or
 20 is there going to be some more discussion on this at a
 21 later date?

22 MR. SNOW: Well, I think the discussion
 23 that would add detail to these kinds of considerations
 24 will likely take place in other arenas such as the
 25 legislature and other places like that in terms of

120

1 adding detail to this. I think what this is, is pure
 2 policy in the sense of mapping out the five basic
 3 policy areas that we assume are going to be taken care
 4 of as transfers take place. I don't think it will be
 5 here that the details of these issues will be
 6 resolved.

7 That's not totally responsive. I guess I'm
 8 saying that in each of these cases there's a lot of
 9 detail. And as Hap indicated, there already are
 10 significant statute and court cases on what it means
 11 to harm fish and wildlife, and so there's a whole body
 12 of law that's out there.

13 And as you may know, there's legislative
 14 proposals to clarify the ability to do transfers.
 15 There will be administrative action such as under
 16 CVPIA that clarify how transfers will take place in
 17 compliance with these basic conditions.

18 So I think what we're establishing is
 19 clarifying that in terms of CalFed and what we assume
 20 about our three alternatives, these are the conditions
 21 that we have in place when we assume transfers are
 22 taking place.

23 CHAIRMAN MADIGAN: Richard?

24 MR. IZMIRIAN: I was going to ask you
 25 to clarify that no harm to fish, wildlife, and

121

1 habitat. Does that mean no further harm, or does
2 that -- sorry -- does that mean that transfers are an
3 opportunity to restore or mitigate problems that are
4 occurring through diversions or transfers that are
5 already occurring?

6 MR. SNOW: I think it literally means
7 that the transfer will not result in harm to fish and
8 wildlife. But a transfer can take place for the
9 benefit of fish and wildlife. In fact, that's going
10 on today.

11 Water is being purchased for purposes
12 of putting in this instream flow to provide a specific
13 fishery's benefit. But if even when you do that, if
14 you're buying water to help spring run salmon, you
15 have to make sure that inadvertently you're not
16 harming Delta smelt.

17 MR. IZMIRIAN: If a current diversion
18 is causing harm to fish and wildlife and habitat
19 through the transfer, would rules be put in that will
20 reverse that impact?

21 MR. SNOW: I think the answer to that's
22 no. I mean, this is designed to be conditions that
23 govern a proposed transfer of water.

24 MR. IZMIRIAN: That means no further
25 harm, basically.

123

1 already currently occurring. So I wanted to know what
2 the relationship was between the CalFed solution and
3 water transfers in general.

4 MR. SNOW: We're assuming that water
5 transfers are part of the solution, the long-term
6 solution to the Bay-Delta system problems. And we are
7 further assuming, from policy standpoint, that
8 transfers that take place as part of the long-term
9 solution comply with these five conditions as modified
10 here today.

11 MS. KAMEI: Thank you.

12 CHAIRMAN MADIGAN: Members of the
13 audience who wish to comment on this subject.

14 Mr. Petry?

15 MR. PETRY: Ed Petry, 291 Fleming
16 Avenue, member of the public --

17 CHAIRMAN MADIGAN: Did Metropolitan
18 Water District print those shirts, Mr. Petry?

19 MR. PETRY: I --

20 CHAIRMAN MADIGAN: Did Metropolitan
21 Water District print that T-shirt and get you to wear
22 it?

23 MR. PETRY: They're not easy to come
24 by.

25 CHAIRMAN MADIGAN: I'm not real sure

122

1 MR. SNOW: Yes.

2 CHAIRMAN MADIGAN: Alex?

3 MR. HILDEBRAND: Going back to what Hap
4 said, when we go out under this program to acquire
5 water on the San Joaquin tributaries, we can bind
6 ourselves not to do some of the things that may be
7 undesirable regardless of current law. It seems to me
8 that's what we're talking about here.

9 And I get back to the business that I
10 mentioned this morning, that I don't see how we can
11 make those acquisitions on the tributaries the firm
12 component of every one -- every alternative we have
13 without first examining whether you can acquire the
14 water consistent with these requirements. And I'm
15 dubious that that's the case.

16 CHAIRMAN MADIGAN: Okay, thank you.
17 Rosemary?

18 MS. KAMEI: Lester, I need some help in
19 understanding. These conditions, I understand, are
20 policy considerations for the CalFed. But are they
21 policy considerations just looking at the CalFed
22 solution, or are they sort of for transfers in
23 general, or -- because there are a lot of transfers
24 and there is a lot of transfer law, as Pat had
25 mentioned, that already exist and things that are

124

1 that answered the question.

2 MR. PETRY: I'm hard of hearing.

3 You're going to have to speak up.

4 Anyhow, in regards to water transfers, and
5 exempt in rural communities in the debates, I frown
6 about that. You're talking about me. You're talking
7 about the community that I live in. Have I been
8 coming up here for nothing or what?

9 You pull water out of the aquifers from
10 underneath the Mendota Pool, you're going to get land
11 subsidence. And Mendota Pool, if you don't understand
12 it, I'll explain it to you. It is in the caulk and
13 clay area. It's above the caulk and clay area. And
14 they back up water in the Mendota Pool. It goes all
15 the way to San Mateo Avenue. It goes all the way back
16 to the change bypass. It's got to be level in that
17 area. That's where your caulk and clay area is,
18 beneath that. You put 60 wells in that area, pump the
19 water from the ground, you're going to lose the
20 levees.

21 What was the purpose of putting Friant Dam
22 in in the beginning? Flood control? Now you're going
23 to bring it back?

24 I condone water transfers. I think it's a
25 good idea for fish, for habitat, for people, for

125

1 farming, for agriculture, rural communities, industry.

2 But how are you going to do that if you don't put the
3 water back in the ground?

4 You take it out of the ground here, you put
5 it on the ground adjacent to it, it goes back in the
6 aquifer, you replenish it. You transfer it from the
7 east side to the west side, you get land subsidence
8 unless you got a way to replenish it. Okay?

9 Now, we're going back to additional
10 storage. I gave you comments, written comments, on 15
11 or so beneficial uses. I was late getting them here,
12 I turned them into BDAC on the 23rd of -- 23rd of
13 July, and it just now got here. And it ain't easy for
14 me to do these things. But anyhow, I wish you'd take
15 them into consideration.

16 Now you don't want to talk about additional
17 storage, but you want to talk about water transfers.
18 That doesn't make a whole lot of sense. But if you
19 incorporate them together, then you got common sense.

20 Look at the feasibility of it. Look at the
21 benefits to it. If the east -- if the west side wants
22 to pull water out of the east side and use on it the
23 west side, fine. I think it's good. But the west
24 side and the east side should help us to acquire more
25 water.

127

1 and the fish don't vote. Before the year 2020, you
2 will be looking for more storage.

3 Thank you.

4 CHAIRMAN MADIGAN: Thank you,
5 Mr. Petry.

6 Is there anybody else in the audience who
7 wishes to be heard on this?

8 If not, Lester, do you want to summarize?

9 Yes, sir, I'm sorry.

10 MR. JACKSON: I'm so short you couldn't
11 see me behind the podium.

12 CHAIRMAN MADIGAN: I have a little of
13 that problem myself.

14 MR. JACKSON: Mike Jackson, Regional
15 Council of Rural Counties.

16 I'm distressed by the fact that we're
17 settling the transfer question in a meeting sort of a
18 couple of weeks after transfers first came up, when
19 they've been a problem in California for 15 years.

20 I'm also distressed that there's only one
21 transfer program suggested in alternative analysis.
22 It seems to me that water can be transferred in any
23 number of ways. And that as creative as a group of
24 people are here, to try to design one transfer system
25 and then apply it to each of three alternatives seems

126

1 Same thing with the San Luis drain. You

2 don't want to talk about the San Luis drain. It's the
3 state that's going to regulate it, Regional Water
4 Quality Control. Fine. You want to bring the salmon
5 back, give us some more flows. You want to dilute the
6 San Luis drain seven-tenths of a mile from the Mendota
7 Dam to the confluence of the San Luis drain on Bass
8 Avenue, that's all -- that's all the structure you'd
9 have to have for the San Luis drain. You wouldn't
10 have to take it to the Sacramento Delta.

11 If you had high quality water with control,
12 water quality control over that water, you could
13 dilute the waters for the San Luis drain, save the
14 money of completing the structure, bring back the
15 underground plumbing or the 43,000 acres west of
16 Mendota of the San Luis drain, bring back the salmon a
17 natural way, bring back the habitat between Gravity
18 Port and the Mendota Pool, bring back the habitat for
19 the (inaudible) irrigation district.

20 You have to take into consideration the
21 benefits. And they are enormous. We have to do a
22 study on that. This is something that you're going to
23 have to be concerned with or you didn't talk about
24 water transfers. We want a solution to the problem
25 that will satisfy everybody. The fish don't pay taxes

128

1 to me to defeat the purpose of NEPA and the purpose of
2 CEQA, which is to look into alternative analysis so
3 that you can determine what would be the most
4 efficient way to do what it is you're trying to do.

5 Water transfers have -- again, we've talked
6 about the third-party effects that they have on both
7 the environment, and I do agree with you. I think
8 that the third-party effect that would most harm the
9 north state is to the environment of the north state.
10 But it also harms the folks in the north state.

11 I find myself essentially agreeing with the
12 gentleman who just talked in front of me, even though
13 we're from completely different areas and completely
14 different communities of interest. It seems to me
15 that an example of what the transfer -- where they
16 would be from, where they would be to, you know, we
17 talk a lot about fish and farms, but I haven't heard
18 anything about the third part, which is fish, farms
19 and sprawl.

20 And where we transfer the water, from where
21 to where, is going to depend upon how the whole State
22 of California develops over the next 20 years. And
23 I'm really reluctant to see us agree on those five
24 things, correct as they are, and then just go on,
25 bound to this system and whatever comes out of it

129

1 without fully examining the question of transfer.

2 If transfer is as good as its advocates say
3 it is, it may be that we don't have to build
4 facilities. If transfer requires facilities, we
5 should know what facilities, if it's storage, if it's
6 conveyance, in order to set up the transfer system.

7 But just to set it up so that water can be
8 moved from one part of the state to another part of
9 the state, from one water rights holder to another
10 water rights holder, essentially puts us in the
11 situation in which CalFed very quickly is going to end
12 up losing influence to the state board, which is where
13 the water transfer cases all have to go.

14 So I would just like to point out that a
15 lot of people have spent a lot of time on this subject
16 and I don't hear those discussions taking place here.
17 And I think they ought to take place before that list
18 gets approved.

19 CHAIRMAN MADIGAN: Thank you, sir.

20 Let me say something that Lester has said a
21 number of times around here because -- I mean the
22 kinds of comments that are being made are good
23 comments. They are -- they illustrate important
24 issues. But we have a whole lot of different pieces
25 to this puzzle, one of which is transfers, and this is

131

1 that transfer is going to be a user initiated or a
2 water right holder initiated transfer. And I know
3 that in the governor's policy and in the CalFed policy
4 you always stop short of giving the disposition of the
5 water to be transferred to the water right holder.

6 And water districts, especially in Northern
7 California, are very concerned about that, and it's a
8 red flag when user initiated transfer shows up or
9 there is -- if the issue is not addressed. And I
10 don't see the fact that the water right holder having
11 control of that transfer being an impediment to
12 transfers, and we believe that it's very important
13 that the water right holder be acknowledged as the
14 entity that determines the disposition of that water
15 to be transferred.

16 And I guess I'd like to ask Lester a
17 question. Why does CalFed stop short of that?

18 MR. SNOW: To avoid the heated
19 discussion of the... I mean, I think in this case
20 what we have done is we've picked up basically the
21 governor's policy statement on this, and the way it
22 was handled there is recognition that you have to deal
23 with the local entities.

24 I think having been involved in some of the
25 earlier discussions of four, five years ago, what we

130

1 an attempt at looking at this question of transfers
2 and is it an appropriate kind of thing. There
3 certainly are storage kinds of questions, and there
4 are certainly facility kinds of questions, just as
5 there are water efficiency and management kinds of
6 questions.

7 And while it's very difficult to not want
8 everybody to understand your perspective as it
9 involves those other things on each of these
10 individual issues, what Lester is trying to do is
11 specifically get us to look at each of these pieces of
12 the puzzle and see if we're defining at least that
13 piece in an accurate kind of way. And if we're not,
14 we should be making amendments to it.

15 But to say that we're talking about
16 transfers here, doesn't mean that we don't have a
17 piece that talks about storage, or it doesn't mean
18 that we don't have a piece that talks about a lot of
19 other kinds of things.

20 Okay. Yeah, Don?

21 MR. BRANSFORD: I just wanted to make
22 one comment, and Stu touched on it, and if the five
23 items that were listed are part of the process and
24 that would be guidelines, one of the concerns that the
25 water rights holders always have is whether or not

132

1 found is that the water law is complicated in some
2 areas, that water -- user initiated transfers are not
3 a panacea as some people thought four years ago. And
4 actually some water rights in the state are held in a
5 very complex fashion, and I think that needs to be
6 worked out, that very issue that you're raising.
7 I think unlike, say, four years ago, when
8 there was heated debate about it, I think there is
9 quite widespread agreement with the statement that you
10 made, that if you don't have the water rights holder
11 at the table during transfers, you're in for big
12 trouble. And so that needs to be incorporated into
13 the process.

14 But we have not gone further than the
15 policy that the governor outlined on this. And I
16 believe in terms of making sure that the local
17 community and all the local impacts are integrated is
18 where that issue needs to be captured, so we simply
19 stopped it there.

20 CHAIRMAN MADIGAN: Yes, sir.

21 MR. OTTEMOELLER: Thank you. Steve
22 Ottemoeller with Westlands Water District.

23 I guess I'd like to agree with Lester that
24 there is someplace that you have to stop in terms of
25 the whole transfer picture. A couple of the previous

133

1 speakers to me suggested that you need to resolve all
2 these issues. I suggest you can't. But I'd also like
3 to suggest that it's possible to deal with how
4 transfers fit into CalFed without having to resolve
5 all those problems.

6 We, a number of water agencies and a few
7 private entities, recently worked together to put --
8 to publish a handbook on transfers through the Delta.
9 We face the same issue: How do we deal with transfers
10 through the Delta without trying to solve all the
11 transfer problems in the State of California? We
12 simply referenced that there are those problems and
13 that there are forums to deal with those problems.

14 The state board, in looking at how
15 transfers fit into the 1995 Water Quality Control
16 Plan, looked at what points in time transfers might
17 occur that probably will have the least amount of
18 impact. They identified some windows where transfers
19 could occur. They identified some quantities of water
20 that could probably be transferred in certain year
21 types, and they evaluated that within their
22 environmental assessment under their water quality
23 control plan.

24 So that then gives those of us who would
25 want to do transfers that involve the Delta kind of a

134

1 basis on which we can evaluate whether the transfer
2 makes sense. It doesn't relieve anybody of the
3 obligations that they have to deal with any
4 environmental impacts outside the Delta, with any
5 economic impacts in the areas where the transfers
6 occur. But I'm simply suggesting that it's possible
7 to isolate the transfer issues to the Delta for the
8 purposes of the CalFed plan without having to get into
9 the huge morass that everybody has kind of started
10 getting into as soon as you start talking about the
11 big issue on transfer.

12 There's a lot of transfers like the kind
13 that Ed Petry was referring to, that may occur within
14 the Mendota Pool or from the area of the Mendota Pool.
15 Those types of transfers are going to occur very
16 independently of what's going on in the Delta, but not
17 without some relationship to the CalFed solution.

18 In other words, if the CalFed solution
19 doesn't result in adequate water supplies or adequate
20 reliability in export area, then you're going to see
21 more of those types of transfers being proposed. But,
22 again, I would submit that's possibly an impact
23 analysis as opposed to how do we fix that in the
24 CalFed process.

25 I have kind of a question. I'm still a

135

1 little confused -- maybe I've given you part of the
2 answer -- but I'm a little confused as to how the kind
3 of policy statement on transfers that you've
4 identified ends up getting used. Is it used such that
5 this is our statement now, we'll evaluate transfers as
6 they can fit within the system kind of as part of the
7 conveyance and storage process? Or do you use those
8 as some kind of basis for establishing those transfers
9 that might have a priority or a better chance of
10 occurring?

11 And I'm not trying to give an answer, but
12 I'm saying that to me it's kind of an open question
13 that's still inherent in coming up with kind of a
14 policy statement on transfers, without defining how
15 that statement is going to apply to transfers that
16 people may propose through the Delta.

17 MR. SNOW: I think the short answer to
18 that question is that what had evolved over, say, the
19 last six months of discussion, particularly of BDAC,
20 was conversation on transfers that if you look at the
21 record tends to be negative, that transfers are bad,
22 should not be part of the CalFed.

23 And it was important for us to establish
24 that there is a transfer policy, there is implicit
25 transfers in the system, and we wanted to be right up

136

1 front about that and this is how we are assuming
2 transfers will take place.

3 The reason that that's important is if we
4 look at modifying the system, adding habitat,
5 modifying the diversion structure, adding storage, you
6 have to be able to evaluate how that is going to be
7 utilized. And part of that is assuming that there's
8 going to be transfers taking place.

9 If, on the far end, there was a state
10 policy that there shall be no transfers, you would
11 evaluate that very differently. If you assume that
12 transfers are part of the water scenario, will
13 continue to be part of the water scenario, then that
14 must be evaluated as we propose modifying, storage,
15 diversion, habitat and other aspects of the system.

16 For us, it's -- this is simply a
17 policy-clarifying issue, and we want to make it clear
18 that transfers are part of it and indicate that,
19 basically, that's agreed to.

20 CHAIRMAN MADIGAN: Alex, and then Hap.

21 MR. HILDEBRAND: Part of what I was
22 trying to call attention to this morning is that you
23 have to look not just at the impact of individual
24 transfers but at the cumulative impact of those
25 transfers. And there have been a number of references

137

1 to the governor's policy statement. He has that
2 included in his policy statement, but it doesn't come
3 forth if you only read the part about -- that directly
4 addresses transfers.

5 But he -- in listing his objectives, one of
6 them is that for agriculture, adequate long-term water
7 supplies at a reasonable cost with dry year
8 groundwater reserves were feasible. Reasonable cost
9 isn't necessarily what the chip manufacturers might be
10 willing to pay.

11 Then he goes on to say, all major water
12 user groups must recognize that no one sector can be
13 allowed to get ahead of the others in meeting its
14 needs. We must move step by step and each step must
15 be linked to progress for every other sector. And
16 that sector business refers back to his having
17 included agriculture specifically as one of the
18 sectors.

19 So his policy statement did recognize that
20 you have to look at the cumulative effect of these
21 things, and that there is some limitation on the
22 extent to which you just go to a high price to take
23 water away from people.

24 CHAIRMAN MADIGAN: Thank you.
25 Hap?

138

1 MR. DUNNING: Well, as several people
2 have said, we have an existing framework of law that
3 deals with transfers, when they can happen,
4 restrictions and so forth. Now, Alex earlier made a
5 very interesting point. If I understood him, he said,
6 well, maybe CalFed would have a list of requirements
7 with regard to transfers that would be more narrow
8 that would say there should not be a transfer in a
9 certain situation where the state law might allow it.
10 Taking that point, the question I have in
11 my mind is, well, if CalFed said that, how would it
12 control what happens? CalFed is going to recommend
13 certain things with regard to ecosystem restoration,
14 conveyance, storage, levee stability, et cetera. The
15 program goes out, then CalFed is finished and
16 transfers will take place according not to what CalFed
17 said, but rather according to the legal framework
18 that's out there.

19 And unless we're prepared to take another
20 step and say to the legislature, you ought to change
21 the law in this way or that, I don't see what we can
22 do about it, and therefore I don't see really why
23 we're discussing it.

24 CHAIRMAN MADIGAN: Judith, and then
25 Alex.

139

1 MS. REDMOND: I think there has been a
2 number of people who have endorsed these five points,
3 and I think that's really good. I also feel very
4 comfortable with them.

5 The point is that those policy statements
6 aren't consistent with state law. Those things aren't
7 happening. Adequate notification is not happening,
8 avoiding potential impact may not be happening.

9 And so I think if we endorse these -- this
10 framework, what in my mind it means that we're doing
11 and why we're talking about it is that we're hoping
12 that as we move forward and we see pieces of
13 legislation proposed or policy changes proposed, that
14 we're going to try and make sure that they reflect
15 this commitment to a good policy framework. That's
16 why I think we're talking about it.

17 CHAIRMAN MADIGAN: Alex, then Ann, and
18 Hap again.

19 MR. HILDEBRAND: Well, first let me
20 agree with Judy.

21 But then in response to Hap, in the case
22 where our program is going to go out and acquire
23 water, we can acquire it on whatever basis we want,
24 regardless of what the law is, as long as it's not in
25 violation of the law.

140

1 CHAIRMAN MADIGAN: Ann?

2 MS. NOTTHOFF: Yeah, I was going to say
3 that the issue of water transfers is a dynamic one and
4 there's a number of proposals that many of us are
5 aware of to change things, too. So I think that what
6 CalFed rule is to establish, I think it is appropriate
7 for CalFed to have these five principles and to go
8 forward on that basis.

9 CHAIRMAN MADIGAN: Thank you.
10 Hap?

11 MR. DUNNING: Well, I wanted to ask
12 Judith, are you suggesting, Judith, that CalFed as an
13 entity would get involved in the legislative debate
14 about transfer law and take positions as to what the
15 legislature ought to say and how they ought to deal
16 with these deficiencies?

17 MS. REDMOND: Well, that's been
18 suggested here before, both in terms of the federal
19 legislation that parallels 204 was suggested in an
20 earlier meeting by Sunne regarding the water transfer
21 legislation.

22 That's not really what I was suggesting.
23 Mostly I was suggesting that if as a group we agree on
24 these principles, then as individuals in our work it
25 seems that we could make a good faith effort to see

141

1 that these principles were embedded in policy
2 proposals that any of us have anything to do with in
3 the future.

4 CHAIRMAN MADIGAN: Okay.

5 Done, done, done, done.

6 All right. Thank you all very much for
7 that. We'll move on, then.

8 We're going to take the finance component
9 next. Eric and Zach, you guys are on.

10 MR. HASSELTINE. Zach will lead off.

11 CHAIRMAN MADIGAN: All right.

12 Mr. McReynolds?

13 If you'd care to join us here, Zach, we
14 will -- talking to your broker, were you?

15 (Laughter.)

16 MR. McREYNOLDS: The purpose of this
17 presentation is to bring you up to date -- you have to
18 forgive me, I have to take this piece of candy out of
19 my mouth. Sorry, it's very rude, but that's life.

20 The purpose of this presentation is to
21 bring you up to date with what we've been doing in the
22 finance area since the last time we really made a
23 presentation, which in my memory was sometime around
24 the May time frame.

25 This work -- this part of CalFed's work is

142

1 very closely associated with what's going on in your
2 BDAC finance work group. Most of the work that's been
3 done has been in terms of preparing issue papers and
4 documents for purposes of discussion at the work
5 group.

6 And if you'll recall, we -- oh, brother.

7 There we go (adjusting overhead). We started out --
8 the finance work group was the first work group to be
9 put together -- was the first work group to be put
10 together and this was our essential purpose in being
11 put together.

12 What it basically says is that this group
13 needs to feel comfortable that somebody is taking the
14 time to look at the detailed implications of these
15 policy questions. And I'd like to point out that
16 we're trying as best we can to focus the discussion on
17 the policy questions, as opposed to the sort of nuts
18 and bolts implementation issues.

19 But this group needed to make sure that
20 there was a group of your members and the stakeholders
21 who are looking at those policy questions in more
22 detail than you felt comfortable looking at in this
23 forum. So that's what we're trying to do.

24 In line with that mission, at our first
25 meeting -- our first couple of meetings, we put

143

1 together a few pretty straightforward goals:

2 To review the list of critical policy
3 issues, and these are policies issues related to
4 finance, to define what some realistic policy
5 alternatives would be, to talk about those, and then
6 to come back to you and try to summarize either a
7 consensus or reasons for lack of a consensus and what
8 the opposing sides of the discussion were.

9 And we were given -- whether it was April
10 or May, I can't recall -- but we left this group with
11 a list of issues, and this -- virtually this same
12 overhead was put up at that time as our sort of
13 initial starting place of issues to talk about. And
14 then one of the things we did was to go back and try
15 to organize all those issues into some sort of logical
16 progression so we could take them in sequence, and
17 this is what we came up with.

18 First to talk about who the financial
19 participants are. That means essentially who do we
20 think our potential people are who are going to be
21 paying for this solution.

22 Then we -- because in response to really a
23 pretty widespread desire to -- at least in the
24 ballpark to know what we're talking about in terms of
25 dollars, we came back with a cost estimate example

144

1 that was based on one of the alternatives that was
2 back in the set of ten that we had in mid last spring.

3 Then we had a discussion in our work group
4 about use of economic incentives, which was -- came to
5 virtually, I think, the same conclusion that the
6 efficiency work group came to.

7 Then our discussion turned to some
8 potential revenue alternatives, and these were -- this
9 was in a pretty broad level. We're talking about just
10 in terms of big groups of people like the general
11 public versus the specific users. We haven't yet
12 broken this down into specific sectors or groups of
13 people.

14 Our last topic at the previous meeting that
15 we just had was on institutional needs. And the way
16 we phrased that was whatever institutional or
17 assurances structure is developed to implement this
18 solution, it needs to have certain characteristics in
19 order to have an effective plan of finance. And what
20 we tried to do was list those characteristics, without
21 presupposing what that institutional structure would
22 be. We just wanted to talk about the kinds of talents
23 it would have to have.

24 Our next -- our next and final discussion
25 will be in November, and it will talk about a cost

145

1 allocation example.

2 The basic purpose of this first review of
3 these, in my mind, has been twofold. One, to try to
4 define clearly what these issues are. In other words,
5 phrase the question accurately. What is the policy
6 question that we're trying to answer here.

7 And then, unavoidably, we had a preliminary
8 discussion as we were trying to do that, so that we
9 could sort of see what the major feelings were from
10 different groups of people about that issue. We
11 didn't answer any of the questions; we didn't come up
12 with any final answers. That's because we're going to
13 have to come back to these over and over again in
14 increasing levels of detail as we go through this
15 process.

16 But we're almost finished with this first
17 overview where we've sort of got a list of the policy
18 questions that we know we're going to be facing as
19 time goes on.

20 With that, I think I'm going to turn it
21 over to Eric Hasseltine, who's the chairman, in order
22 to discuss the kinds of -- the specifics of the issues
23 we talked about and the kinds of discussions we had.

24 CHAIRMAN MADIGAN: Thank you, Zach.

25 Eric?

147

1 issue areas that we had dealt with. And that's true.

2 And we first started out looking at those as sort of
3 discreet limits, and we rapidly came to the conclusion
4 that they were all interrelated because as soon as you
5 started talking about financial methods of dealing
6 with one, it raised issues that were affected by what
7 you were doing on the other issues. And so everything
8 kind of got jumbled up, and we're still fighting our
9 way through that to clarify the whole situation.

10 What I want to present here today is just a
11 brief sort of outline of the logic, to the extent that
12 there is any logic, and the process which we're trying
13 to follow in terms of developing a financial plan and
14 the financial policies which we hope will eventually
15 be a part of the overall solution.

16 So we went back to basics, and as you all
17 know, when we began this many months ago, one of the
18 first things we did was we began to define a whole
19 bunch of discreet separate actions which could somehow
20 each one contribute something that was considered to
21 be beneficial or effective in helping address one of
22 the objectives of the overall BDAC plan itself.

23 And we had many, many actions which were
24 boiled down then into collections and were integrated
25 in with other actions which were originally then

146

1 MR. HASSELTINE: Thank you, Zach.

2 Good afternoon. As Zach had indicated, the
3 finance working group has been working every month for
4 the last several months really in an attempt to get
5 our arms around another one of those problems that
6 we're all looking at that are part of the overall
7 solution here that seem to be so complicated as to
8 never provide a particularly attractive place to
9 really take a firm foothold.

10 But we have been looking at all of the
11 aspects which would go into developing a financial
12 plan which will be necessary to implement the
13 so-called solution once we get to it.

14 It seemed apparent to us from the start
15 that the plan itself and the components of the
16 financial plan itself will strongly affect both the
17 feasibility and the acceptability of that final
18 solution, and therefore, it strongly suggests that
19 there's a feedback loop here that is going to have to
20 move along with the solution as it's developed and the
21 financial plan that's developing because the financial
22 plan will obviously have an impact on what the
23 solution itself will be and what the structure will
24 be.

25 Zach indicated that we had six initial

148

1 reduced to what we call core actions, which were
2 considered to be absolutely essential to the ultimate
3 solution, and other actions which could be helpful in
4 some circumstances and in some particular
5 alternatives, perhaps not others.

6 And we then realized that it was kind of
7 silly to use actions that were not particularly
8 effective in all cases, and so we've come down now to
9 the concept at the end of Phase I of the common
10 programs of actions.

11 So that really gives us, I think, an easier
12 way both to deal with it in terms of the effectiveness
13 of the overall solution, but it also gives us an
14 easier way to deal with in terms of looking at how you
15 finance these things to be able to look at these
16 things as a block and as a group, instead of trying to
17 do it individually.

18 We started out at our last meeting, by the
19 way, of thinking about how we would begin to finance
20 each of us, a number of separate actions in one of the
21 common programs, and we just didn't get anywhere at
22 all because of all the questions that were raised
23 about to what extent do you pursue that particular
24 action, and all of the different people who might have
25 a part in that or be affected by that. So we backed

149

1 off that temporarily, and I'm going to tell you in a
2 few minutes where we're headed now.
3 But regardless of that, the idea is, I
4 think, that we have to start with a set of actions,
5 and from those set of actions then we want to start
6 looking at who the beneficiaries of those actions are
7 to begin to build on the plan.

8 So these new graphs are a little bit off
9 the track at the moment because we had them for the
10 meeting last time which sort of represented where we
11 were last time. We have made some progress since
12 then, so I've taken the liberty of sort of mixing up
13 the viewgraphs a little bit to try to clarify the
14 situation.

15 But basically the first point here is
16 really meant to emphasize the need to begin to develop
17 the beneficiaries of whatever actions constitute the
18 eventual solution. Those beneficiaries then will in
19 some cases, and in most cases, become a financial
20 participant.

21 Now, it's not intended that the cost
22 allocations, which we're going to get into in a
23 minute, will be exclusively assigned to beneficiaries,
24 but we think that beneficiaries will pay a very large
25 role in the assignment of costs.

151

1 beneficiaries, the real big issue will become how are
2 the costs allocated amongst the beneficiaries. As I
3 said, it's not really an exclusively beneficiary based
4 cost allocation method that we're looking at.

5 We do admit the possibility of certain
6 issues within the Delta, and certain actions that need
7 to take place that are specifically related to
8 problems in the Delta that are being caused by, and
9 for which there's a direct link to some sort of action
10 or entity within the Delta, a party within the Delta
11 that in fact is a cause of a problem.

12 And the obvious example of that is some
13 sort of pollution source which needs to be cleaned up
14 in pursuit of our overall water-quality objectives.
15 In that case, even though everybody is a beneficiary
16 of that action, we feel that the cost of that action
17 needs to be related back to the source of the problem
18 to the greatest extent possible.

19 So for the most part, costs will be related
20 to benefits, and therefore we need to try to identify
21 the beneficiaries in both a direct sense and an
22 indirect sense.

23 We need to look at the financial capability
24 of the beneficiaries. Some beneficiaries will not
25 have the kind of financial capability necessarily that

150

1 And then the next thing that needs to be
2 done, obviously, is we need to look at the cost
3 estimates of what it will take to implement the
4 solution and the cost estimates associated with each
5 of the actions and steps.
6 So there's capital costs, there's operating
7 and maintenance costs associated with the program, the
8 actual program administration costs itself,
9 enforcement that we touched on here in some of the
10 discussion. And then the timing which is absolutely
11 critical both to the implementation of the plan, some
12 things will take a long time to implement; some will
13 not. The time at which they are implemented there
14 will be a sequencing that will be essential in order
15 to gain maximum efficiency in the plan.

16 And that, of course, then will play back
17 into the whole financial plan as to what type of
18 financing you may want to use, and taking advantage of
19 things like bonding, which provide you the opportunity
20 to finance over a long period of time, as opposed to
21 having a lot of cash up front. Then that whole timing
22 issue becomes very important both in the plan and the
23 finance itself, and it's one of the key places, I
24 think, in which the feedback loop works best.

25 Moving on from that, then, once we know the

152

1 will relate directly to what their proportional share
2 of the benefits might be.

3 That gets us into the issue of fairness and
4 equity, which as we mentioned earlier this morning
5 were good words. But fairness and equity here, again,
6 may not be an adequate way of really assigning costs
7 and then dealing with financial expectations as a
8 result of those assignments.

9 So we think, in this case, that what really
10 is going to happen is what comes down to what is
11 acceptable. And what is acceptable is probably in the
12 end going to be what can be negotiated somehow amongst
13 all of the water users and all of the participants in
14 this plan.

15 And we see that as a difficult step and a
16 difficult process, but we really think it's going to
17 be sort of a negotiated settlement of how the costs
18 will be split, and we think that in the end what's
19 going to become a lot more important is the results as
20 opposed to the process that we go through to get
21 there. So even though we'd like this to be as
22 quantitative as possible, in the end that may not be
23 possible.

24 What is not on this chart and should be is
25 also the whole question of cost effectiveness. On one

153

1 of Lester's charts this morning when he defined
2 Phase II, Step 3 of the six steps was identification
3 of costs and benefits. And it's very, very important
4 that as we begin to try to evaluate the value of
5 benefits and the costs thereof, that obviously we
6 don't get into a situation where the cost of the
7 action in fact is greater than what the benefit is.

8 So there has to be some sort of a measure
9 or performance analysis of each of the actions and
10 then a cost estimate made and those related to make
11 sure that the action makes sense from an economic
12 standpoint.

13 Assuming that somehow we get to the point
14 where all of the costs can be allocated out to various
15 parties, then we have to start looking at what kind of
16 revenue alternatives there would be. And the costs
17 can be generally lumped together into a participation
18 in the private sector, the public sector, and to a
19 certain extent what we call common users.

20 You may remember many months ago we had
21 this whole issue of the definition of private, public
22 and common beneficiaries. And that's still somewhat
23 confusing. But basically the public sector, meaning
24 public institutions or public governmental agencies
25 who are expected to play a large role in the revenue,

154

1 especially as it affects the ecosystem restoration and
2 the environmental aspects of this.

3 There are the common users -- or the common
4 participants that really tend to be sort of a
5 corollary to the public portion of this, in that the
6 common really refers to the public at large in terms
7 of individuals as opposed to institutions.

8 And the big thing is that, say, the
9 definition between a public resource and a common
10 resource is that the public resource is one that
11 cannot be depleted and the common resource is one that
12 can be through use thereof. So, for example -- well,
13 use of -- an example of road capacity, or in this case
14 perhaps fish populations, that as you use it or have
15 an impact on it, the resource itself is depleted. And
16 so that definition is of use in some forms of
17 financial analysis.

18 Then, of course, there's the obvious
19 private user mechanisms, meaning the private sector,
20 the private benefits, and primarily the users of the
21 water itself in this case.

22 We are looking then at institutional needs
23 for a sort of public financing techniques, bonding,
24 and other imposed revenue sources associated with the
25 cost allocations. And one of the main things that is

155

1 needed in there and fits in with our other assurances
2 of work here in BDAC is the assurance that in fact the
3 money that would be raised through a -- whatever
4 public issue that might be or public mechanism it
5 might be, would in fact be used to accomplish the
6 action that for which it's been represented.

7 In other words, the purposes of the bond
8 itself will in fact be met and followed. And then
9 that ties in directly with the other work of the
10 assurances that, in fact, the plan will be implemented
11 as designed in order to gain the expected benefits.

12 We don't need to go through cost allocation
13 tools again. I've mentioned that.

14 Then what we have left is getting into
15 situations on potential budgetary limitations on what
16 we might want to do here. In other words, there's
17 sort of two approaches here. We can go through and
18 get a tremendous comprehensive solution to the
19 problems with the Bay-Delta, but will we really have
20 the resources in the end to finance that? And do we
21 simply start by trying to put things together perhaps
22 in a method of priority and go as far as we can, or do
23 we just hope that as we move ahead without
24 necessarily -- and do the things perhaps that are
25 easiest first, working our way into the harder one,

156

1 and just hope that somehow all the money is going to
2 be there?

3 It seems very likely to us that no matter
4 what we do, in the end there's going to be financial
5 constraints. Certainly in the public sector, there's
6 going to be financial constraints. And therefore, the
7 whole issue of prioritization will become very
8 important, and the whole issue of cost effectiveness
9 will become very important because there will probably
10 in the end be some limit to the money available for
11 the implementation of the solution, and which may mean
12 that the solution itself will be limited in some way.

13 We're looking at what alternatives there
14 might be to provide the public funding source. Right
15 now we're sort of very hopeful and optimistic that the
16 federal government will play a role and will continue
17 to be supportive as they have shown recently in terms
18 of their matching funds.

19 And we're hopeful that voters of the state
20 in about a week will -- two weeks, will be good enough
21 to approve Proposition 204, which will be a huge step
22 in the right direction. And we need to assess what
23 the prospects will be for future success on such
24 ventures.

25 In closing, what we want to do is to set up

157

1 an overall financial structure which will, in fact,
2 provide a basis for the financial decisions we need to
3 make as we move through the implementation of this
4 solution.

5 And one of the issues that's been brought
6 up that I think is very interesting is what is really
7 the starting point, and in fact what is the financial
8 baseline. In other words, is the system that we have
9 in place now by which people throughout the state are
10 paying for the water they get, and all the water
11 delivery systems that are in place today, their
12 financial structure, is that a structure that really
13 meets all the criteria we're setting forth in terms of
14 fairness and equity, acceptability, and is it in fact
15 a system which will mirror whatever sort of formula we
16 come up with for a beneficiary based on allocation of
17 costs? And if not, what do we do about that?

18 So that still has to be worked out, whether
19 we simply take the status quo as a given and move
20 ahead, which seems likely, or whether or not what
21 we're going to do in the future has an effect that
22 will necessitate some sort of changes in the status
23 quo.

24 So I think with that, I'll leave you off.
25 I just wanted to run through some of our thought

158

1 processes to date in an attempt, as I said, to
2 surround the issue to try to raise all the questions
3 and potential obstacles we could see. And I think
4 we've gone through this enough now that we recognize
5 that this is a type of thing that simply can't be put
6 together in the abstract.

7 And so what we're going to do is begin to
8 focus on a specific example. As I mentioned earlier,
9 we thought that perhaps we would build this from the
10 ground up by taking a group of actions and start
11 trying to price those out and so forth, and we ran
12 into immediate difficulty of trying to get that done
13 in any sort of an expeditious way.

14 So we're going to go to an actual project.
15 It's not going to -- we had hoped to build up toward
16 what one of our three alternatives would be, probably
17 the most complicated one because that would be the
18 best to deal with, would cover the most bases, but we
19 decided at this stage that some of that is so
20 indefinite and undecided yet that it would take us
21 forever. So we decided to go to a specific example of
22 something that, in fact, has already been worked on
23 and is perhaps well thought out, and that's the Sikes
24 Reservoir facility.

25 So we're going to take a close look at what

159

1 the financial structure of that is in terms of how we
2 would look at it as a component of the overall
3 Bay-Delta solution, how would we put together a
4 financial plan that tries to -- attempts to meet all
5 of our objectives and so forth.
6 So if we get through that, then I think we
7 can go back and start to look at how we realistically
8 start to finance those common programs that are going
9 to be common to all of our alternatives.

10 Again, we are not at a place yet where I
11 think we can talk in any detail about what that will
12 look like.

13 So, Mr. Chairman, I think that concludes
14 our report.

15 CHAIRMAN MADIGAN: Thank you, Eric,
16 good report. Zach, good report.

17 Questions by members of the BDAC?

18 If not, then members of the audience?

19 Mr. Petry?

20 MR. PETRY: Ed Petry from Mendota
21 again.

22 I think -- I think if we understand the
23 issues on SB 900 and Proposition 204, I'm going to
24 vote for them. I think they're good issues. I think
25 they're good legislation. What it adds up to is a

160

1 Band-Aid over wounds that require surgical stitches.
2 And the only way we are going to repair those wounds
3 is with additional storage, out of Delta additional
4 storage, in the upper confluences.

5 Thank you.

6 CHAIRMAN MADIGAN: Thank you, sir.

7 All right, good report. We will move onto
8 system integrity.

9 Curt? You need one minute to move this
10 back so that we can read the slides?

11 He's going to show slides, Lester. It's
12 kind of a new technology.

13 MR. SNOW: No, no.

14 (Laughter.)

15 MR. SCHMUTTE: Can everybody see that?
16 I tried to make it big enough.

17 I guess moving on later in the agenda, I
18 guess one of the things that I've been told is you
19 want to move through this fairly quickly, you don't
20 want to labor on, so I'll try to move on.

21 The five things I'm going to cover in the
22 next, say, 15 minutes, are try to establish a vision
23 for the Delta levee system, the system vulnerability;
24 talk briefly about some of the history that has gone
25 on that has brought us to this point and the

161

1 accomplishments; talk about the organizational
2 structure that we're using in terms of framing this
3 system vulnerability work plan; give you an overview
4 of the technical work team that has been set up,
5 technical team that's been set up to deal with levees
6 and channels; and then the seven sub-teams that have
7 been established and some of the work plans that they
8 have been working on; and finally, identify some of
9 the key issues that this work group -- excuse me --
10 technical team is dealing with.

11 In establishing a vision for the Delta and
12 the Delta levee system, I think first and foremost
13 it's important to realize that you need a reliable
14 levee system because if you don't have levees, really
15 you don't have a Delta.

16 Many of the things, the components that we
17 talk about in terms of water quality, water supply,
18 are dependent upon having the current levee system
19 that we have. If you don't have levees, you don't
20 have a Delta. So first and foremost, we need a
21 reliable levee system that's sustainable.

22 And then if you have that reliable levee
23 system, you have some unique opportunities to provide
24 habitat. I like to equate it to the Christmas tree.
25 If you have a nice tree structure, you have a lot of

162

1 tree to hang a lot of ornaments on. And if we have a
2 good levee system, we can put a lot of habitat on that
3 levee system. We have opportunities for additional
4 recreation in the Delta that we currently don't have,
5 if we have a strong levee system.

6 We want to make sure that when we look into
7 the future and we're establishing this vision, that we
8 want to do that in a way that is very efficient, it
9 works on the latest designs, it utilizes the most
10 cost-effective materials. So we want to look at
11 beneficial reuse of dredged material in the future.
12 It's a very important issue. So we want to be
13 efficient.

14 In terms of the Delta and the Delta levees,
15 the levees that we have in the Delta are now in some
16 cases 20 to 30 feet high. If we didn't have
17 subsidence that has gone on over the last hundred
18 years, these levees would only be about five feet
19 high. So if we can control and eventually reverse
20 subsidence, we think that that has to be a part of the
21 long-term vision for the Delta.

22 And finally, a very important component,
23 this is something that Alex has been an advocate for,
24 and that is if you can spend a few tens of thousands
25 of dollars averting a disaster, you can save millions

163

1 of dollars. The loss of homes, lives, structures,
2 infrastructure, water quality can all be saved if you
3 have the ability to act quickly. If you have an
4 emergency response program that is able to move and
5 stop the boils, stop the levee from being over-topped,
6 you can save large expenditures.

7 It's hard to establish a vision without
8 showing you one. And this is an idea of a levee
9 system in which we have a unique levee, a very
10 reliable levee, strong, high, stout, but it has
11 allowed us to hang habitat on both the land side and
12 the water side.

13 We have over here on the land side of the
14 levee, we have gone to maybe a shallow flooding regime
15 near the levee in order to control subsidence, and
16 I'll get into that a little bit more later. We have
17 the opportunity to move out into the channel and
18 establish some berms and channel islands to create
19 additional habitat, but all part of this long-term
20 vision of the Delta.

21 So that brings to us the organizational
22 structure. How are we organizing this in order to
23 move forward into the future? There is some history
24 behind this. The Delta Flood Protection Act of 1988
25 established what is called SB34. It's \$120 million

164

1 program. To date, there has been about \$65 million
2 spent. That program was built upon this structure;
3 that is, that there is a system set up to deal with
4 Delta-wide maintenance of all the levees, so all the
5 levees -- nobody is left out.

6 And I know Pat has a concern about the
7 CalFed program in that we talked about priorities.
8 But, in fact, the CalFed program as it's laid out is
9 built upon this existing structure, which is everybody
10 gets equal treatment and everybody comes up together.

11 In addition to that, it's important to have
12 a program that deals with high public priorities.
13 There are -- nobody will deny that there are some
14 islands in the Delta that are critical for protecting
15 water quality, they have a high degree of public
16 infrastructure on them, highways, roads, parks. And
17 we also have islands in the Delta that have more
18 habitat, or more habitat potential than others.

19 So this program recognizes both of those.
20 Nobody gets left behind, and that some islands are
21 advanced because of their higher public benefit.
22 Under these programs we have, again, the emergency
23 response, subsidence control, and beneficial reuse.

24 I mentioned the fact that this program, the
25 CalFed program for levees and system integrity builds

165

1 upon an existing program, the SB34. I think it's
2 important in order to establish a vision and a path
3 for the future, if we make sure everybody understands
4 the foundation on which we're building upon.

5 The existing program, as I mentioned, has
6 spent \$65 million. As a result of that, we have shown
7 that the Delta levee system is not something that it's
8 a hopeless situation, that you're going to walk away
9 from it, that you might as well throw up your hands,
10 it can't be fixed. We went through the '95 floods
11 without a single levee failure, and I think that's as
12 a tribute to the program's success.

13 We've done a lot of research into seismic
14 risk. We've established a map of what the Delta risk
15 looks like, and we are in the process refining that.
16 And I think one of the big areas we've dealt with is
17 this on subsidence. For many years there was a lot of
18 talk about the subsidence and the causes of
19 subsidence; compaction due to farming equipment,
20 consolidation, wind erosion, burning, and oxidation.

21 As a result of the very good research
22 that's gone on with the cooperative program the
23 Department of Water Resources and U.S. Geological
24 Survey, we have identified that the vast majority of
25 the subsidence that is occurring in the Delta is as a

166

1 result of the microbial decomposition of the highly
2 organic peat soils to carbon dioxide.
3 We have been able to measure about 50
4 pounds of carbon dioxide per day coming off these peat
5 soils. We have been able to measure about .05
6 millimeters per day of actual soil lost in the surface
7 of the soils. And we know that as you go into the hot
8 summer months in the Delta, with the right moisture
9 conditions, high organic content, those are the ripe
10 conditions for these microbes to work and release --
11 convert the organic carbon in the peat to carbon
12 dioxide.

13 So what our next step is, is to determine
14 how can we stop those little microbes from eating up
15 all our peat. And what we found is you can drown
16 them. If you keep them submerged --

17 CHAIRMAN MADIGAN: It's a little harsh.
18 (Laughter.)

19 MR. SCHMUTTE: If we convert the
20 aerobic microbes and we go to an anaerobic condition,
21 that is, we keep them permanently flooding in a
22 shallow manner, we can actually stop the release of
23 all that carbon dioxide to the atmosphere and we can
24 stop the subsidence process. And, in fact, we've been
25 able to reverse the subsidence process to actually

167

1 what I term grow peat.

2 CHAIRMAN MADIGAN: It never occurred to
3 me that you can define drowning somebody as keeping
4 them in a permanent anaerobic condition, but I suppose
5 that's true, isn't it?

6 MR. SCHMUTTE: The other thing that the
7 program has done that's been a big success is that
8 when you look around the Delta, you will realize that
9 in order to create -- in order to restore the levees
10 and in order to create the habitat that's going to be
11 needed to restore the Delta, there's one common
12 thread. And that is that there's a need for a
13 tremendous amount of material.

14 We have estimated amounts on the order of a
15 hundred million cubic yards of material will be needed
16 to restore the Delta levees to some ultimate standard,
17 some ultimate target. You can probably look at
18 volumes of material on that order for large habitat
19 restoration projects in the Delta; that is, projects
20 that would take areas that are currently five or ten
21 feet under water and build those back up to an area
22 where you can create tidal marsh and some riparian
23 habitat. And that has been done and demonstrated by
24 core activities on Venice Island and Diamond, and I'll
25 get into that a little bit more.

168

1 The SB34 program has created about 200
2 acres of habitat and we have identified some new and
3 efficient designs in improvement of the levee system.

4 This is Twitchell Island in the 1995
5 floods. This levee was raised in 1992 two feet and
6 substantially widened. I'm pretty sure this levee
7 probably would have failed had it not been for the
8 program.

9 The program, as I mentioned, did identify a
10 seismic vulnerability. This is a preliminary risk
11 assessment of the Delta for seismic vulnerability, and
12 as I mentioned, has done substantial amount of
13 research in the causes of subsidence and how to
14 reverse subsidence.

15 A shot of what beneficial reuse really
16 looks like. This was a case where we took about
17 400,000 cubic yards of material out of Clifton Court
18 Forebay and put it on Twitchell Island. Much more of
19 this in terms of beneficial reuse needs to happen.

20 And, again, the habitat development that
21 has occurred.

22 Now, let me get into the structure that
23 we're using in advancing the CalFed program. And that
24 is, there is a levee and channel technical team that
25 comprises about 40 people. The attendance has been

169

1 very good. We've been able to make very good
2 progress.

3 We have set up seven technical sub-teams,
4 dealing with the range of topics; the all important
5 subsidence that I mentioned. We have a seismic
6 sub-group.

7 We have, under Marcia Brockbank's
8 leadership, a group that's called the Channel Island
9 Group that's just recently been adopted into the
10 CalFed program. This group is also dealing with
11 Dick's ecosystem technical team.

12 We have a very important levee associated
13 habitat technical sub-team that's looking at -- we
14 have a lot of barren levees in the Delta and areas
15 where we can attach habitat to levees, both land side
16 and water side, and that's being closely coordinated
17 with the ecosystem work group.

18 We have a very good group working with -- a
19 small group, but a very talented group of people
20 working from the Regional Water Quality Control Board,
21 BCDC, Bay Planning Coalition, Army Corps of Engineers,
22 dealing with the important issue of dredge material
23 reuse.

24 We have an emergency response plan that has
25 actually been drafted. We have a number of

170

1 consultants in the Delta; Gilbert Cosio, Chris Nudeck,
2 and others, Dan Nomalini. They are currently working
3 on an emergency response program so that we don't get
4 into these expensive reclamation after the flooding
5 and we deal with procedures -- in modifying procedures
6 now that so we can be a well-oiled machine and not
7 have funding issues arise after the event.

8 One of the things that the seismic work
9 group is currently working on is that they -- there's
10 this all important question that's out there, and that
11 is do the peat soils act as a sponge when we have
12 strong motion, and therefore dampen the accelerations,
13 or in the Loma Preata case, they amplify the motion.

14 We have cases that can be claimed on both
15 sides of this argument. So we have strong motion
16 instruments actually down in the Delta levees in three
17 or four locations in the Delta, and what we're hoping
18 for is a small earthquake in which we can answer this
19 question and not lose any levees in the process. But
20 we are -- we do have the instruments in the ground and
21 we hope to answer that one.

22 Marcia's group is looking at these very
23 important channel islands. We are losing them. They
24 are being lost. We've got photographs dating back 50
25 years and you can look and see the massive channel

171

1 islands that once existed. And you can compare them
2 with current aerial photographs, and you can see in
3 most cases that these islands are being eroded away.

4 And so we are losing a valuable resource in
5 these all old remnant islands that can show you what
6 the Delta looked like 200 years ago.

7 Then again the emergency response group
8 that's working, this is Tyler Island in 1986, and we
9 are, as I said, working with the local reclamation
10 districts to have a very well-oiled machine that
11 can -- when boils and high water arise, that we can
12 mobilize. And if you can get to a situation before it
13 becomes catastrophic, in most cases you can avert a
14 disaster.

15 And so that brings me to the last issue,
16 and these are the issues that we will face as we move
17 this program forward. And one of those very serious
18 issues deals with dredging.

19 Right now, there's a lot of dredging that
20 goes on in the Bay and Delta, and only a small
21 fraction of that, if at all, ends up in a beneficial
22 reuse. We need to do more in terms of not
23 side-casting this material or open water disposal of
24 this material, but in fact using that material to the
25 benefit of both the levees and for habitat.

172

1 And so we need to address that through a
2 cooperative effort, through cost sharing, and working
3 with the Army Corps of Engineers to establish a more
4 regular procedure for beneficial reuse of dredge and
5 dredge material.

6 Another thing that's associated with
7 dredging is there's currently -- there was at one time
8 a large amount of dredging that went one within the
9 Delta channels for levee maintenance. There was a
10 large amount of equipment associated with that marine
11 operation every year.

12 As a result of Endangered Species Act
13 constraints, there is now just a six-week window in
14 which any of that dredging can occur. As a result,
15 the amount of equipment that's available in the Delta
16 to do that has greatly been reduced. And, in the
17 event we get into these future situations where some
18 of these islands are only accessible by water, we are
19 going to be in a very limited situation to be able to
20 respond to those emergencies.

21 So we need to deal with these dredging
22 constraints, both from the Endangered Species Act and
23 from some institutional policy issues associated with
24 more beneficial reuse.

25 We have some waterside construction issues.

173

1 I mentioned and I showed you, and I'll show you again
2 in a minute, a template of a cross-section in which we
3 can establish more habitat on a levee. In order to do
4 more of this, in order to put more shaded river and
5 aquatic habitat, in order to create emergent marsh, we
6 need to be able to put material out here in order to
7 create that habitat.

8 There's a conflict that exists right now
9 between creating that habitat and filling up what may
10 have been shallow water habitat, and may be smelt --
11 Delta smelt habitat. So we need to get -- work
12 through our -- some of the issues associated with,
13 again, Endangered Species Act constraints and the
14 development of that habitat.

15 And another issue I mentioned briefly was
16 the idea of channel islands, and we're losing the
17 channel islands. There are a lot of erosive forces
18 working in the Delta today; flows, we have some large
19 wind-driven waves. If you look back at some old Delta
20 maps from a hundred years ago, you will see that many
21 of the Delta channels are much narrower than they are
22 today.

23 We've widened these channels considerably.
24 As a result, we have much larger wave fetches due to
25 wind than we've had in the historic time. And that's

175

1 scientific basis, to come up with some plans to
2 formulate what those priorities are going to be. But
3 ultimately it's going to be a policy decision, and
4 that will come back to you guys.

5 And finally, seismic. It's a very hot
6 topic. It's been in the -- when you talk about the
7 Delta, it's hard to talk about the Delta without
8 talking about the seismic risk. We need to and we are
9 in the process of better defining that risk. We want
10 to work with the USGS to better define the activity of
11 the faults, and we want to better define whether we
12 are going to have this amplification or continuation
13 of the ground motion.

14 So with that, I've covered basically the
15 additional use of dredge material and some of the
16 issues associated with that. And here is a case where
17 we created some waterside habitat on Staten Island
18 through a cooperative effort of the locals and the
19 SB34 program. And we need to do more of this, a lot
20 more of this, and the levees provide that potential.
21 And again, some vision of what the levee system will
22 look like in the future in some cases.

23 And with that I'll wrap it up and see if
24 there are any questions.

25 CHAIRMAN MADIGAN: Questions?

174

1 having an effect on this erosion.

2 But we also are having an increased amount
3 of boat activity. If you've ever been in the Delta
4 you'll notice there are large boats that transverse
5 through the Delta. And if you've ever been, as I do,
6 waterskiing in the Delta, you'll realize that some of
7 those wakes are fairly large. And when they crash up
8 against the levees and the channel islands, they turn
9 the water muddy brown as a result of that wave action,
10 that energy that's crashing up against the levees.

11 So in some cases, not all, I think we need
12 to deal with how we're going to restrict that activity
13 or limit the boat wakes, such as they are not causing
14 a severe degradation of the habitat and the levees.

15 And then finally dealing with
16 prioritization, this group is in the process of
17 looking at how and where are we going to do subsidence
18 control. Which levees are more important than other
19 levees? Where are we going to put the habitat? What
20 corridors are we going to put it on? What parts of
21 the levee are we going to put it on? Where are we
22 going to put the recreation?

23 So there's a whole system -- a whole bunch
24 of priorities that need to be set. And the technical
25 team will be working from a technical basis, a very

176

1 Pat.

2 MR. DUNNING: Curt, some time ago,
3 CalFed had a submission which called into question the
4 long-term sustainability of farming on some of the
5 very deeply subsided islands in the Delta.

6 Is your group examining that or are you
7 simply assuming long-term sustainability?

8 MR. SCHMUTTE: No, we are very closely
9 examining that issue. We have, as I mentioned, a
10 very -- it's a well-funded program looking at
11 subsidence and what we can do to reverse subsidence.
12 And the current effort of this CalFed technical
13 sub-team that's dealing with subsidence is looking at,
14 from a very scientific standpoint, where are the
15 highly organic materials in the Delta, those materials
16 which are having the highest oxidation rates. We are
17 mapping their location. We're looking at depth of
18 peat, so not only how much organic matter is there but
19 how much organic matter is left there.

20 So if you have, in some cases, maybe 90
21 feet of peat left, it makes sense that you would
22 institute an -- or a subsidence control program in
23 those locations. But maybe you have very highly
24 organic material but it's only a few feet thick. Does
25 it really make sense to go in and institute a

177

1 subsidence control program if you're only going to
2 subside a few more feet before you get down to the
3 inorganic materials?

4 So we are looking at depth of peat, and
5 we're also looking at that in relationship to the
6 levee system, so that if you -- does it make sense to
7 control subsidence two miles away from the levee as a
8 result, or does it make more sense to control
9 subsidence adjacent to the levee where it's going to
10 have a more immediate impact on the levee stability.

11 All those things are going to be combined
12 into a -- what we are doing as a GIS, Graphical
13 Information System, that will look at -- help us
14 answer where you will want to establish these
15 subsidence control features.

16 And then we're also doing research into
17 what those -- what the tools that we're going to have
18 at our availability to control subsidence. And one of
19 the things is we know now that we can stop subsidence;
20 we think we can actually reverse subsidence by going
21 to shallow flooding.

22 The other thing that we're looking at is
23 capping. We know that if you place an inorganic
24 material or, say, dredge material over these organic
25 peat soils, that you can greatly reduce the amount of

178

1 oxygen that's getting into the peat, and therefore the
2 decomposition and the subsidence. So it may be
3 possible, in some cases, to use capping as an
4 alternative to controlling subsidence.
5 And so we are in the process of coming up
6 with the map, if you will, for the Delta, and then the
7 mix of features that can be used to apply to that to
8 allow some long-term sustainability to be applied to
9 the Delta, such that we're not going to be -- and I
10 think that's our worst fear, that we don't want to put
11 tens of millions of dollars into the levee system only
12 to come back 10 or 20 years from now and have to do it
13 all over again. And so that we want to be able to
14 control subsidence such that there is, in fact, a
15 long-term sustainability to the Delta.

16 CHAIRMAN MADIGAN: Alex, and then Stu.

17 MR. HILDEBRAND: First, I would like to
18 say that I think Curt is doing an excellent job and
19 has made a very nice presentation. I'd like to hear
20 from him and Pat McCarty about how this work of Curt's
21 meshes with the work that's been done by the Delta
22 Protection Commission on the same general subject.

23 Then as regards the choice between capping
24 the peat and continuing with agriculture versus
25 farming tules, the choice there would depend partly on

179

1 the availability of the capping material, and partly
2 on other considerations that Curt just made.

3 As regards availability, one source of
4 material would be that the -- there's been an enormous
5 aggradation of the river channel of the San Joaquin
6 from Vernalis on down, because once the river hits the
7 tidal zone with its current low flow rates, the
8 velocity drops further and the material drops out. At
9 my place the bottom of the river is about eight feet
10 higher than it was 34 years ago. So that's one
11 source.

12 Now, another consideration that wasn't
13 mentioned is that it takes an awful lot more water to
14 farm tules than it does to farm for food. So that to
15 the extent we shift from agriculture use of the land
16 to tule use of the land, we're going to use up a lot
17 more of our water supply.

18 And the difference is significant. We
19 can't just ignore it. And so it raises the question
20 to the extent that we shift from ag land to tule land,
21 do we then commit ourselves to go out and develop that
22 much more water supply? Or, if we don't, from whom
23 does that reduction in water supply become a problem?

24 CHAIRMAN MADIGAN: Thank you.

25 Stu?

180

1 MR. PYLE: Curt, I was wondering if
2 your studies take into account looking at areas that
3 might be suitable for some of the in-Delta island
4 storage projects that we heard so much about in the
5 early alternatives, or if you're looking at the
6 maximum sustained land use utility in the Delta. Land
7 use or any water -- I'm talking about the water
8 storage projects, that chain of lakes, et cetera, do
9 you -- do any of those figure into your considerations
10 at this point on the Delta?

11 MR. SCHMUTTE: We haven't looked at
12 either the Delta wetlands project or any of the water
13 supply proposals through-Delta proposals in terms of
14 how they would fit within our program. And I don't
15 think it's necessary that at this time we make any
16 adjustments because what we've done is at this time we
17 are basically putting -- we've developed this
18 basically across the board Delta subventions program
19 that deals with all the Delta islands.

20 And then we have, as I mentioned, a program
21 that's putting priorities on islands. But that
22 priority system is going to be dependent upon whatever
23 the ultimate alternative that is chosen so that it's
24 quite flexible and can deal with a, you know, in-Delta
25 storage, whether it's the Delta wetlands or chain of

181

1 lakes or what other through-Delta transfer.

2 So we'll be able to adjust, and we're not
3 making any -- we're not moving ahead with anything
4 that would interfere with any of that.

5 MR. PYLE: What are the priorities?

6 MR. SCHMUTTE: The priorities
7 basically -- when we go back to that organization
8 chart that I showed, we are establishing under this
9 special projects part of the program, a priority list
10 for the Delta in that we are looking at issues like --
11 and it's a whole long list, but some of the key issues
12 are water quality, infrastructure, public benefits, in
13 terms of prioritizing, you know, which levees need to
14 be upgraded into what standard, where we are going to
15 put the habitat on the levees, where you're going to
16 put recreational facilities. Those types of issues
17 are going to be prioritized.

18 MR. YAEGER: Maybe I can speak to
19 Stu --

20 CHAIRMAN MADIGAN: Mr. Yaeger?

21 MR. YAEGER: -- a question about island
22 storage.

23 The proposals for storing water on Delta
24 islands are being examined in the storage and
25 conveyance part of the program. We are using a lot of

182

1 the factors that Curt's team is developing there on
2 levees. But -- so that's where we'll be examining
3 that issue.

4 MR. PYLE: Thank you.

5 CHAIRMAN MADIGAN: Bob?

6 MR. RAAB: Curt, will there be any
7 cost-benefit analysis -- cost-benefit ratio study done
8 for each of these islands wherein you would total up
9 the crop value, habitat values, if possible, and water
10 quality values, if possible, and recreation values,
11 and then run those figures up against the cost of
12 rebuilding the levees?

13 MR. SCHMUTTE: That's a very good
14 question, and let me answer it in two parts.

15 First, from the aspect of environmental
16 documentation, what's required by CEQA and NEPA, and
17 then what we're doing in terms of prioritizing the
18 islands.

19 In terms of coming up with a priority
20 system, as you can well imagine, you've got a lot
21 of -- some figures that you can put hard dollars on,
22 like agriculture and infrastructure. But there are
23 other things like a tremendous amount of habitat that
24 exists on the levees and on the islands that are
25 harder to put dollar figures, and there's also the

183

1 potential for creating that habitat. There's also the
2 seismic issue and the water-quality issue. And these
3 get a little -- very hard to define in real dollar
4 terms.

5 And so what we've done is we've -- we're
6 going to create this large matrix, if you will, that
7 will quantitatively -- or qualitatively, excuse me,
8 identify all the factors and best describe them as we
9 can. And then through a panel of experts and our
10 technical team, we'll begin to evaluate those relative
11 to one another with a team of biologists and engineers
12 and economists, and look at the relative value of
13 these islands based on that way.

14 So we will not be looking at it on a strict
15 benefit-cost ratio in terms of coming up with
16 priorities. But we will need to, in terms of the
17 EIR/EIS process, need to look at the risk both
18 existing and post CalFed implementation in terms of
19 our putting a dollar figure on that, on those
20 improvements, so that we can say that, yes, in fact
21 we've been efficient and have the most cost-effective
22 improvements.

23 Did that answer it?

24 CHAIRMAN MADIGAN: Pat, the only guy
25 smart enough to bring a parka to the meeting today.

184

1 MR. McCARTY: It's cold over here.

2 CHAIRMAN MADIGAN: It's cold up here.

3 MR. McCARTY: With respect to this
4 topic, the Delta Protection Commission has looked at
5 it, as Curt knows. We wrestle with the same kinds of
6 issues that the questions have been asked this
7 afternoon. We listened to a lot of people talk about
8 value, cost-benefit analysis, how we are going to
9 determine which one to save, which one not to save.

10 We found out that it was nearly impossible
11 to assign value because value was a perception. And
12 habitat had an equal value with urban in some people's
13 mind, perhaps higher. Farmland has a higher value in
14 some people's mind than habitat.

15 We looked at the adopting one standard, I
16 guess that's where we might differ, and I hope it's
17 just semantics, but we adopted and recommended a
18 standard called the PL99 for the height of the levee.
19 Now, the design of the levee, I think we can concur
20 with Curt's team as how to it ought to be designed and
21 what it ought to look like and what components ought
22 to be involved in it.

23 But in terms of its integrity, we think
24 that there ought to be a uniform standard, and that
25 will benefit the entire Delta because we believe that

185

1 the entire Delta is only as strong as its weakest
2 link, and any one of those islands that's not the same
3 standard becomes the weak link whether it's protected
4 habitat or farmland or infrastructure.

5 So our people are working with Curt and we
6 support what they're doing. We're just very, very
7 concerned about the standards and the application of
8 standards.

9 As we heard in the previous presentation,
10 there's a likelihood, as Eric pointed out, that the
11 resources may be limited. At some point we're going
12 to have to make some decisions about the allocation of
13 resources to pay for all these things.

14 If an island that was all habitat was low
15 on the priority list and the resources ran out, we've
16 got a weak link. We've got to deal with this the way
17 it is.

18 And I think we're going to find, as we
19 continue through this process, that when we start
20 talking about having to recreate this habitat or
21 restore this habitat, we're going to see values and
22 costs that will just boggle our minds. And so if we
23 get into this cost-benefit analysis and try and assign
24 value based on those things, we're going to move that
25 real fast up to real high up on the list.

187

1 structure that we've come up with is the best way to
2 address this problem; and that is, you treat -- you
3 have a system that deals with everybody equally. At
4 the same time you have a pot of money that deals with
5 priorities, because I don't think anybody will deny
6 that Sherman Island is more important, say, than a
7 little Mandeville.

8 And there are -- so we need to have
9 something that recognizes that difference in public
10 values. And it's very difficult to assign those
11 public values, I would agree with Pat. But I think
12 even with a panel of experts looking at very
13 qualitative descriptions, you can still come up with a
14 priority list that many or most will agree with in
15 order to begin to work on those priorities.

16 So that is the structure in which this
17 CalFed levee team is moving forward, that nobody is
18 getting left behind. Everybody has -- the Delta levee
19 system will be brought up uniformly together through
20 the subventions program, but it may mean that some
21 islands move quicker towards that than others. But
22 nobody is going to be -- nobody is going to be denied
23 access to the long-term program for the Delta in
24 saving the Delta levee system.

25 That's all.

186

1 Thank you.

2 CHAIRMAN MADIGAN: Thank you.

3 Anybody else?

4 MR. SCHMUTTE: Can I respond?

5 CHAIRMAN MADIGAN: Curt, sure.

6 MR. SCHMUTTE: Let me just quickly, if
7 I can go --

8 If I could have the lights just briefly.

9 What -- just for a quick overview and what

10 Pat's talking about in that this isn't a new
11 discussion, it's been going on for several years. It
12 started way back in the BDAC process when we had
13 technical teams. And that is that there's a group
14 of -- there are some people that would say we're
15 spending a lot of public money and we ought to just
16 address solely the public benefits. And then you get
17 into this very difficult issue that Pat's talking
18 about, which is how you assign those priorities.

19 And then we have, and have had for many
20 years, a program over here dealing with what we call
21 the Delta levee subventions program, which basically
22 every Delta district gets a shot at bringing their
23 levees up to some common standard.

24 And the consensus of a wide variety of
25 people that have looked at this has agreed that the

188

1 CHAIRMAN MADIGAN: Okay. Thanks, Curt.

2 Moving on. Public information, public
3 outreach update.

4 Mary? Mary Kelly.

5 MS. KELLY: I'll take a couple of your
6 minutes -- a couple minutes of your time this
7 afternoon to talk to about what appears in your packet
8 on the subject of public outreach.

9 As we move into Phase II, public outreach
10 is probably more important to this program than ever.
11 And staff have been taking a number of steps in recent
12 weeks to reach out to more people and help more people
13 get involved in the CalFed program.

14 I'll briefly go through some of the things
15 that we've done, and then talk to you about some help
16 that we need from you.

17 In the past roughly six weeks, we've
18 established a speakers bureau with the standard
19 presentation and standard visuals, and you'll all be
20 happy to know that there are probably 30 overheads
21 that go along with it in the CalFed tradition. And we
22 have recruited a number of speakers, some of whom are
23 from BDAC, some of whom are from different
24 organizations.

25 And the goal of the speakers bureau is to

189

1 have people stationed throughout the State of
2 California available to give presentations to
3 everybody from water agencies to rotary clubs to
4 environmental groups, the city councils, whoever is
5 interested.

6 We also have participated in three regional
7 conferences for local governments, and there was one
8 in the LA area, one in the Bay area, in Concord
9 specifically, and one in the northern state in
10 Redding.

11 And those conferences which were organized
12 by the League of California Cities attracted about 55
13 mayors, city council members and county supervisors,
14 and it was a great opportunity for us to communicate
15 with everybody from mayors of big cities and
16 supervisors from large counties, to folks from very
17 small towns and small areas and very rural areas and
18 very urban areas, so it was a great opportunity. And
19 the groups were small enough that there was some
20 dialogue.

21 Looking ahead, we've set up a calendar of
22 several half-day workshops, technical workshops, which
23 will go on through the beginning of next year, and
24 this is the opportunity for folks like you and for the
25 people you represent, the stakeholders, to participate

191

1 tentative schedule of public meetings, but we need to
2 know from you what are the best locations within your
3 communities to hold public meetings? What are the
4 constituencies that we've missed? Who do we
5 absolutely need to reach out to? What are the
6 specific names of organizations that we need to
7 contact so that they know we are having a public
8 meeting in your community? And then we also ask a
9 question, we just ask for your input on the subject of
10 public outreach in general.

11 The response form is designed to be pretty
12 informal. You can jot down your answers in
13 handwriting and fax it back to me, and I'd like to get
14 your answers as quickly as possible so that we can
15 start putting your ideas into practice.

16 Some of you will probably also be contacted
17 by us if we have questions that come up through
18 looking through your questionnaire, through your
19 response form. We will get in touch with you. And I
20 want to encourage each of you to feel free to call me
21 or Judy Kelly at any time if you have ideas about
22 outreach and concerns, something that appears in your
23 local newspaper that is of concern to you, somebody --
24 one of your constituents who talks to you who seems to
25 know nothing about the program or who may have

190

1 in refining the components and helping to put together
2 the draft alternative.

3 We also are developing a calendar of 14
4 public meetings. Those would be two-hour public
5 meetings. They'd be held most likely in the evening,
6 and they'll be all over the state, from Redding down
7 to San Diego.

8 And the goal there is to reach out to
9 people who often don't know about programs like this,
10 for whom it's not their main interest but need to know
11 what's going on how this could affect their community.
12 They are short meetings, they will be in community
13 centers and other places that are easy for people to
14 get to. There will be a fairly basic presentation,
15 and then there will be a lot of dialogue, we hope,
16 with the public, between the public and staff.

17 That brings me to what I'd like to ask of
18 BDAC. Over the next week you can expect to receive in
19 your mail a two-page, one-and-a-half-page I guess I
20 should say, response form. And I would ask you to
21 take just about ten minutes of your time at your desk
22 and fill out that form. It's on the subject primarily
23 of public meetings, but also just general public
24 outreach for CalFed.

25 We are asking for your ideas. We have a

192

1 misconceptions about it, please get in touch with us.
2 We are always eager to talk to you.

3 You'll notice in your packet you have -- or
4 actually outside on the table you have a public
5 involvement calendar for the next couple of months.
6 I'd like to highlight a couple of the things that are
7 coming up soon.

8 We have a number of work group meetings
9 over the next month, and we have our first technical
10 workshop on the components on November 19. And that's
11 a half-day workshop dealing with the ecosystem
12 restoration program.

13 I'm sorry, Dick, you're making hand
14 signals. A full day, thank you.

15 It's a full day, and probably there's lunch
16 in there somewhere.

17 And you will all come together at the next
18 BDAC meeting, as well, which will be in Burbank. And
19 the goal there is to be available to Southern
20 Californians and make it a little easier for them to
21 get to BDAC meetings if they are interested.

22 Any questions or suggestions right now
23 about public outreach or about this calendar?

24 CHAIRMAN MADIGAN: Questions, anybody?
25 All right. Everybody's okay. Okay. Okay.

193

1 MS. KELLY: All right. Thank you.

2 CHAIRMAN MADIGAN: Thank you, Mary.

3 Overview of other key issues, status of

4 federal legislation.

5 Hi, Wayne.

6 MR. WHITE: Thank you, Mike.

7 It's been nice. I can't decide if I'm

8 getting a cold up back here or what. But it's also

9 been educational today to know that we retire cows for

10 hamburgers and then place microbes in anaerobic

11 conditions --

12 CHAIRMAN MADIGAN: You can put a cow in

13 permanent retirement by placing them in a permanent

14 anaerobic condition.

15 (Laughter.)

16 MR. WHITE: We'll put those two forms

17 together.

18 CHAIRMAN MADIGAN: I mean, these things

19 can work together, there's a synergy here. But not in

20 your drinking water, okay.

21 MR. WHITE: I'll just take a moment to

22 let everybody know that Congress passed and the

23 President signed on September 28th in the Department

24 of Defense Appropriation Act, the California Bay-Delta

25 Environmental Enhancement and Water Security Act.

195

1 but this was impressive.

2 Jason?

3 MR. PELTIER: My name is Jason Peltier.

4 I'm with the CVP Water Association. I just along

5 these lines want to bring to your attention that we

6 have formed a federal affairs finance group made of up

7 of pretty small working group of stakeholders, kind of

8 across the board stakeholders. And we are, yes, very

9 concerned about the reality that -- getting the

10 appropriate or authorization is one thing, and

11 unprecedented and a great reflection of our, I think,

12 working -- continuing to work together.

13 But the real game is going to be -- is

14 starting right now, this instant, and will be hot and

15 heavy in the early part of next year where we have to

16 go forward and compete in the zero-sum environment on

17 appropriations against some very well-developed

18 historic programs that people -- pet programs that the

19 committee chairman and members have had for a long

20 time. And we're going to be coming in there trying to

21 carve out some new money, not diminish existing water

22 or environmental programs across the country -- well,

23 that's an open question, I suppose, but we'll try not

24 to.

25 And that is I think something where we

194

1 The act provides for appropriation limits

2 in 1998, 1999 and 2000 of \$443,300,000 for federal

3 activities related to the Bay-Delta activities and

4 related CVPIA work. The one catcher is that it says

5 that the act shall take effect upon the date of

6 passage of the State Prop 204. So we should all go

7 decide how we're going to vote on that, come a few

8 days from now.

9 That's really all I have. It is now a

10 piece of legislation and --

11 CHAIRMAN MADIGAN: But we're not the

12 lobby for an item on your official capacity, Wayne.

13 MR. WHITE: I said everybody needs to

14 go vote.

15 CHAIRMAN MADIGAN: That's really a very

16 impressive thing that happened in terms of the

17 Congress passing and the President signing that piece

18 of legislation so quickly, and it being so helpful. I

19 don't recall that that's happened in a lot of times.

20 MR. WHITE: Yeah. It was the easier

21 part, probably, because the real question will come

22 when you get to appropriations and find the money to

23 appropriate. But it's certainly there and happened

24 fast.

25 CHAIRMAN MADIGAN: I know in the end,

196

1 need -- we, as stakeholders, need to rely tremendously

2 on the CalFed staff for some intelligence on how -- we

3 can't just go back there and say, hey, this is great,

4 we're working together and we got some good ideas. We

5 need to be able to be very specific and very detailed

6 in terms of what the money is going to go for. Not

7 necessarily that we want the appropriations to be in

8 that detail, but we have to have that backup. And we

9 will be looking to your staff to help us with that as

10 we pursue that in Washington.

11 CHAIRMAN MADIGAN: Thanks, Jason.

12 Yeah, I don't diminish for a second the difficulty

13 that lies ahead. But it was a very quick and

14 impressive beginning to this and I think everybody

15 involved should be congratulated.

16 Lester, did you want to comment on the

17 requirement that you guys are going to have to start

18 showing some intelligence here?

19 MR. SNOW: Yeah, that wasn't in the job

20 description, Jason. I don't know why you're trying to

21 change it now.

22 I guess one thing I would add on this theme

23 is that these kinds of things, and I guess I'd go back

24 to the accord and 204, and now the federal funding,

25 they didn't happen because somebody just decided one

197

1 day it was a good idea. That came about because of
 2 the principle of diverse coalitions.
 3 The federal legislation ended up with 48 of
 4 our representatives or Washington representatives
 5 signing on. That didn't happen because they all
 6 thought it was a swell idea. That happened because
 7 their stakeholder communities told them to get on
 8 board. And when they looked at it they saw business,
 9 environmentalists, ag, urban, a lot of different
 10 people saying this needs to be done. And that's what
 11 it's going to take to kind of finish this off.

12 So I think, you know, every time we
 13 accomplish one of these things, even though this is
 14 just an authorization, we have to recognize what it
 15 was that took it to happen. And it wasn't just
 16 somebody running with the ball; it was a whole bunch
 17 of people getting together and making it happen.
 18 And it is all linked to 204, this money
 19 that we're looking at right now. I guess what I would
 20 advise on this is vote early and vote often in the
 21 Chicago tradition.

22 (Laughter.)

23 MR. SNOW: It will not be a death blow
 24 to us if it does not pass. I can't underscore that
 25 enough. But it sure makes a big difference if it does

198

1 pass. It makes life a lot easier for all of us around
 2 this table, every single interest.
 3 We are in the process, I call it the
 4 natural process, even without this activity, of trying
 5 to lay out what things happen first. It's called
 6 staging in the ecosystem program, and that's what we
 7 have to scope to see what can be spent in the -- say,
 8 the first five years of the program, what kinds of
 9 activities can be undertaken. So we're going through
 10 that so that Congress and OMB has some confidence that
 11 when people say they need money that there's actually
 12 something to spend it on. And we're going through
 13 that exercise now.

14 CHAIRMAN MADIGAN: Thank you.

15 Hi, Marcia.

16 MS. BROCKBANK: I just wanted to bring
 17 some information to you about the National Invasive
 18 Species Act. If anybody's been following that, that
 19 was passed by Congress on October 8th. It has not
 20 been signed by the President as of yet, at least
 21 that's the last I heard.

22 And we worked very closely with the
 23 Congressional House Committee on this, and to get the
 24 West Coast included in that legislation. It was.
 25 They did authorize \$750,000 for the West Coast to

199

1 discuss these and do research and preventive measures
 2 on invasive species issues and related to ship ballast
 3 exchange water. However, the legislation has been
 4 authorized but not allocated.

5 CHAIRMAN MADIGAN: Okay. Thanks for
 6 the report.

7 Lester, do you want to take us through a
 8 preview of the work groups in the November BDAC
 9 meeting?

10 MR. SNOW: Actually I think Mary
 11 provided the schedule on that. And unless there's any
 12 specific questions, just go with that.

13 CHAIRMAN MADIGAN: All right. Are
 14 there questions?

15 All right. It's my expectation that we
 16 will deal with the program durability question in due
 17 course.

18 MR. SNOW: Now?

19 CHAIRMAN MADIGAN: No, no, next month
 20 is fine. Unless you want to do something fairly
 21 quickly.

22 MR. SNOW: I can lay that out fairly
 23 quickly.

24 CHAIRMAN MADIGAN: All right. Go ahead
 25 then.

200

1 MR. SNOW: Okay. We have on the agenda
 2 the durability solution principle. And, again, this
 3 is one of those items that we put on because of some
 4 previous BDAC discussions to make sure we're
 5 clarifying policy.

6 It's not at all unrelated to the issues we
 7 talked about this morning, both under the water-use
 8 efficiency as well as the transfer stuff, so it's an
 9 overlapping kind of issue. And I'll try to outline it
 10 in what I consider to be kind of the simplest policy
 11 issues that are embodied in the durability solution
 12 principle, keeping in mind the issue we talked about
 13 earlier that all these solution principles come
 14 together when the whole program comes together in
 15 terms of all the components fitting together.

16 But when we looked at the issues that were
 17 raised at the last BDAC meeting, and I believe the one
 18 immediately prior to that, the way we framed the
 19 policy issue was kind of twofold in terms of the memo
 20 that we sent out.

21 The first has to do with a Bay-Delta system
 22 and its context within the overall state water supply
 23 and demand projection. And as we stated at the
 24 beginning of this program, it is our intent to fix the
 25 Bay-Delta system, to balance the Bay-Delta system, not

201

1 address the state's -- the entire state's water supply
2 issues.

3 Actually not unlike the way Tom Zuckerman
4 characterized it this morning. We're trying to fix
5 this system, figure out how we can optimize it, what
6 is the safe field -- I think is the term that he used,
7 not the term that we're using, but I think that helps
8 to characterize it -- how can we manage this system.

9 So we want to balance that system. It will
10 play a role in the bigger state picture, but we are
11 not being driven by the statewide water supply
12 demand -- water supply and demand projections.

13 The policy question that results from that
14 position we've taken is, is that a reasonable
15 approach? And if it is, can we be durable in the way
16 we proceed with that?

17 The second issue that arises is that it was
18 pointed out that we have to have some timeline that
19 we're looking at. There has to be some concept of
20 that. And what we indicated in the memo was that,
21 particularly for purposes of the EIR and EIS
22 evaluation, you have to have projections, you have to
23 have timelines. We have simply picked up the current
24 Department of Finance projections and we are planning
25 on using 2020 as our projection period for purposes of

203

1 obviously, of Delta restoration, that the scope needs
2 to be focused really on fixing the Delta.

3 However, I think it's important that even
4 taking that consideration, keeping that in mind, I
5 think that whatever solution that develops, and I
6 think this is probably what you're doing anyway,
7 obviously has to be integrated with other efforts that
8 do address problems above and beyond the geographic
9 scope of solution that we're dealing with. For
10 example, the work of the Sierra Nevada ecosystem
11 project, et cetera, and other venues that are dealing
12 with water -- management of water more effectively in
13 other venues throughout the state.

14 So, yes, I think it's reasonable to focus
15 as a matter of problem definition on the Bay-Delta and
16 ultimately on Delta restoration.

17 With regard to the second question, I don't
18 think we need an expiration date. I think, obviously,
19 we have to have a -- some kind of temporal framework
20 to do any kind of effective EIR.

21 However, the whole concept from an
22 ecosystem restoration standpoint and I think from a
23 flexible institutional standpoint, is if you have a
24 program that is it going to be adaptively managed, not
25 just from a biological basis but even institutionally

202

1 EIR/EIS evaluation.

2 However, to be consistent with all of
3 solution principles, it is our intent to try to design
4 a system that can endure beyond that to be able to
5 respond to future conditions and keep the system
6 balanced. And I guess we -- you know, we have simply
7 phrased the question there, is that is it reasonable
8 to have an analytical timeline such as 2020 and still
9 try to design a process that can endure beyond that?

10 So it's really two issues: Is BDAC still
11 comfortable with the fact that we're trying to balance
12 the Bay-Delta system and not solve the statewide water
13 issues, and can we make it durable in that context.
14 And the second is: The timeline that we're using, is
15 that reasonable, and can we try to design something
16 that moves beyond that?

17 CHAIRMAN MADIGAN: Okay. Comments,
18 questions?

19 Mary?

20 MS. SELKIRK. Yes.

21 CHAIRMAN MADIGAN: Okay, thank you.

22 MS. SELKIRK: On the first question, I
23 do agree that while we've struggled with defining an
24 ever-widening scope, geographic scope, to the solution
25 for the CalFed program with the ultimate goal,

204

1 adaptively managed, that you have to be thinking about
2 building in assurances now and building in foundations
3 to the program now that are going to carry it forward
4 beyond 20 years from now, which is really not all that
5 far away.

6 And certainly in terms of ecosystem
7 restoration, when it comes down to repairs of some of
8 the Delta islands or restoration of subsided lands, et
9 cetera, those kinds of processes take a long, long
10 time. So I think it behooves us to get out of our
11 normal California framework, which is that you define
12 a permanent building as anything that's constructed to
13 last 75 years. I think we need to expand our concept
14 of permanence here.

15 CHAIRMAN MADIGAN: Thank you.

16 Stu, and then Alex.

17 MR. PYLE: I think your paper's on
18 track, Lester. I think you're kind of going all right
19 with the precepts you put down there.

20 The one thing I might suggest is that you
21 look for some cross-ties between this effort and the
22 Department of Water Resources update for Bulletin
23 160-98 which is currently going on, some of us are on
24 the advisory there, there are some advisory committee
25 junkies in this crowd, we're on both of these efforts.

205

1 And -- Mike is shaking his head. He doesn't know why
2 anybody would be on two different advisory committees.

3 CHAIRMAN MADIGAN: I can't imagine.

4 MR. PYLE: I might agree with you.

5 But that effort is currently going through
6 items such as estimating future population, looking at
7 the demand reductions over time, looking at aggregate
8 land projections over time, and so forth. And their
9 schedule is -- they call it Bulletin 160-98 there -- I
10 assume that it will be ready for publication about at
11 the end of 1998.

12 And it just seems to me that in terms of
13 cross-ties, maybe you could prevail on them to talk to
14 this group at one of the dinner meetings where you
15 have your additional information, maybe that would be
16 a way to kind of pick up a little information on
17 what's in there and what the schedule is and what we
18 might expect for a joint effort because I'm sure it
19 will pick up a lot of these things that we worry about
20 here that are going to be addressed over there as to
21 our statewide water balance.

22 CHAIRMAN MADIGAN: Excellent point.
23 Thank you.

24 Alex?

25 MR. HILDEBRAND: I think what I have to

206

1 say is pretty much along the same lines of what Mary
2 said, but expressed a little differently.

3 I have a problem with -- I have no problem
4 with saying there's no termination date, there's no
5 expiration date, or anything like that. But I'm
6 afraid if we define -- go too far in defining our
7 chores, only looking at what happens in the Delta,
8 that we're not going to have sustainability.

9 I think, as I said earlier, we have to look
10 at the probable competition for land and water in a
11 fairly long range framework, and that it's going to be
12 very difficult to maintain the public support for
13 environmental water if the public perceives 20, 30
14 years from now that they aren't getting enough water
15 for their purposes.

16 And so granted that we're not going to
17 undertake to supply all that water, but I don't think
18 we can ignore the difficulty of sustainability if we
19 don't address the probable impact of that competition.

20 CHAIRMAN MADIGAN: Thank you.

21 Ann?

22 MS. NOTTHOFF: Along those lines, I
23 think that it's important to keep the issues in the
24 Bay front and center, and also ecosystem restoration
25 necessary in the Bay in the estuary. I think that we

207

1 need to keep a focus on that, because many of the
2 actions upstream that we're going to be calling for
3 need to have that link in terms of justification for
4 benefits to the Bay ecosystem. So I want to add my
5 voice to the chorus of keep the "B" in "BDAC."

6 CHAIRMAN MADIGAN: You got to love this
7 stuff, right?

8 (Laughter.)

9 Okay. Thank you. Anybody else?

10 All right. Members of the audience,
11 anybody want to say anything?

12 Mr. Petry, quickly.

13 MR. PETRY: There has been a lot of
14 things discussed about support in the levees and the
15 estuary, and I'm appreciative of Curt's presentation,
16 I think he's very wise and knowledgeable. And it has
17 been some time since I skied, as a matter of fact it
18 was back when we were using two skis instead of one.
19 I never did find out what a thrill it was to ski on
20 one.

21 But anyhow, once you get the mini Delta --
22 the Delta and the estuary, the Sacramento Delta fixed,
23 I'm hoping that you'll come up and fix our mini Delta.
24 If you're going to be pulling water out of the east
25 side, then you better start supporting our levees.

208

1 Again, too, you have to be concerned about
2 the congestion in the Mendota Pool. There's water
3 where the Delta Mendota dumps in. It used to be 30
4 foot, it's only 12 foot now. There's sedimentation
5 coming out of flood waters directed by manmade
6 channels in the Mendota Pool. Manmade channels,
7 right-of-ways, boat right-of-ways, canals, in the
8 Mendota Pool that carry a vast amount of sediments and
9 contaminants. These things need to be addressed.

10 If you understand where we live in Mendota,
11 we're at the bottom of the basin. We're being
12 infiltrated by the waters from the west side, coming
13 from Westlands Water District and that area. That's
14 into our aquifer.

15 Presently we have 1200 parts per million of
16 total dissolved solids. We go as high as 1700 parts
17 per million of total dissolved solids. We're in the
18 process of looking for another well field now. That's
19 not too far away. Are we going to buy a fuel pump and
20 we work it hard, are we going to suck the salts in?

21 The drafting of water east of us, with
22 outflows in the San Joaquin River, we don't create a
23 water wall like they do in the coastal areas to stop
24 the flow of the contaminants coming from the west side
25 and into our aquifer.

209

1 Is there going to be monies in 204? If we
 2 have to go to surface filtration, can we get some help
 3 in that avenue? We need help. We need assistance.
 4 We're a small community. Normally, we're supposed to
 5 have 8,000 population. We have a number of sometimes
 6 12,000 population, depending on the season.
 7 We're one big labor camp. We're supporting
 8 agriculture. We're subsidizing their housing. We're
 9 subsidizing their water, their sewer infrastructure.
 10 People live in the back yards that don't pay bills.
 11 We need some help with that. We need a labor camp to
 12 help with the social economics of the community. We
 13 are in vast need of help; federal, state, any way we
 14 can get it. But how can we finance it with a
 15 population of 8,000 people that are paying the bills?
 16 I'm hopeful we will get help in some way,
 17 manner or form. Set aside some monies in 204 to help
 18 us, and I think this community will be greatly
 19 appreciative. We're a small community, we don't have
 20 much voting power, but every one of us are going to be
 21 on 204. We'll help you get it, if you'll help us use
 22 it.
 23 Thank you.
 24 CHAIRMAN MADIGAN: Thank you,
 25 Mr. Petry.

211

1 process that prevent you from dealing with future
 2 water-supply developments.
 3 And secondly, should there be an expiration
 4 date. Obviously not. It should -- you should be
 5 thinking long into the future, but you should develop
 6 some substance to that thinking, rather than only
 7 analyzing in some detail to your 2020 and then sort of
 8 letting the future take care of itself. There should
 9 be some criteria on what types of accommodations of
 10 the future you should make, and perhaps you should
 11 establish some 25 or 50 years beyond 2020 to look at
 12 those accommodations in some detail.
 13 So I think there's opportunity for a lot of
 14 agreement and little disagreement there. And I hope
 15 that the advice of the council to the staff and the
 16 staff's participation with you will develop those
 17 agreements.
 18 CHAIRMAN MADIGAN: Thank you, sir.
 19 Public comment?
 20 Oh, I'm sorry, Stu.
 21 MR. PYLE: One additional thought on
 22 the paper on durability. It seems that you've got to
 23 someplace have in here the whole process conditioned
 24 to some degree on what we're referring to adaptive
 25 management in the ecosystem restoration where the

210

1 Anybody else?
 2 If not, all right, Lester, thank you very
 3 much. This is the time for public comment. I'm
 4 sorry, was there another hand in the audience?
 5 Yes, sir, excuse me.
 6 MR. BECHERD: My name is Bill Becherd,
 7 I'm from Cupertino, and I'm a water resources
 8 engineer, unaffiliated right now.
 9 I think that this durability question is
 10 one of the most important that CalFed and BDAC are
 11 addressing. And from reading Alex's comments on
 12 durability and his ideas about it, and then Lester's
 13 response, I'm just a little concerned that there
 14 appears to be more conflict there than I think is
 15 necessary.
 16 And as far as Lester's phrasing of the
 17 questions, I would also agree with yeses, but I think
 18 that the yes can't be unconditional. And when you
 19 talk about those conditions, well, then, you have an
 20 opportunity to accommodate Alex's concerns.
 21 And, for example, on the first question
 22 relative to solving the Bay-Delta problem but not
 23 solving all of the state's water supply problems,
 24 well, yes, you can focus on solving the Bay-Delta
 25 problems if you're not building roadblocks in the

212

1 water operations will be continually revisited. I
 2 know the State Water Resources Control Board will
 3 insist upon that.
 4 But it just seems like that is one of
 5 the -- one of the aspects of getting to 2020, that
 6 you've got to start things, see how they work out,
 7 possibly make some adjustments that you may not be
 8 able to say, well, it's 2020. Maybe it's 2020 with
 9 these adjustments to get to what we thought we were
 10 going to do in 2020.
 11 CHAIRMAN MADIGAN: Okay. Okay.
 12 Anything, anybody?
 13 Mary?
 14 MS. SELKIRK: I just have one final
 15 comment about process. I think as we move into
 16 continued debate on some very substantive policy
 17 matters like water transfer, for example, or water-use
 18 efficiency, or other issues that I think are going to
 19 come before BDAC, I would encourage the CalFed staff
 20 to help us to more clearly define what kind of ground
 21 rules we are operating with here.
 22 Somebody mentioned earlier, well, how do we
 23 know if we've reached consensus? I think we have to
 24 have some more formal understanding of what
 25 constitutes consensus and how -- what process we

213

1 should be going through as a council to know whether
2 we have gotten there.
3 So if we can, as members of the council,
4 have a more formalized understanding of what -- you
5 know, how we can best advise BDAC and how we can know
6 when we've reached agreement. I think having the
7 discussion questions the way that they were laid out
8 in these memos today was extremely helpful, and there
9 are probably variations on that format that could be
10 developed that would help us to be more helpful to the
11 CalFed staff.

12 CHAIRMAN MADIGAN: It's an interesting
13 question. I would be a little bit careful about
14 trying to define things too much right now, I must
15 tell you. I mean, this consensus is elusive and it's
16 also going to be in the eye of the beholder.

17 You know, it's like the famous judge
18 when he was asked about pornography. He said he
19 couldn't define it but he knew it when he saw it. I
20 suspect we'll know consensus if we see it, and I
21 suspect the state legislature will know it, and I
22 suspect the people of California will know it, and the
23 governor will know it, and all those sorts of people.

24 It clearly is going to have to be most
25 everybody. It may not be absolutely everybody, and

214

1 trying to define exactly how many that is right now
2 might be tricky and unnecessary.
3 MS. SELKIRK: Well, no, I understand,
4 but consensus doesn't mean unanimous support. You
5 know, it means that the areas that you can agree on
6 are fairly clearly defined, and the ones you can't
7 agree on are not agreed on. And that's...
8 So I understand what you're saying, but
9 I think we can get a little more coherent without
10 being overly formal or call for a vote. I think we
11 need to have a clear understanding about that issue,
12 about whether there are going to be motions made and
13 voted on. Because I didn't think that that was how we
14 were operating here, but I think we need to be clearer
15 about that.

16 CHAIRMAN MADIGAN: We can refine things
17 as we go; I'm not saying that. I guess we're all sort
18 of trying to shape this thing as we go a little bit,
19 as we move through it, it's okay to develop rules of
20 the road or rules of the game.

21 I'm just a little concerned about being too
22 formal about a process that has necessarily been a
23 little bit loose but it's kind of gotten us a ways
24 down the road that's worked to this point, and I don't
25 want to mess with it too much. You guys have been a

215

1 good will and good spirit and have respected sort of
2 the informal rules of the organization, and it's
3 accomplished a great deal. And I'm appreciative of
4 it, and I don't want to do something that disrupts
5 your now proven ability to make this system work.

6 Lester has got -- he's got your point and
7 we'll talk about it.

8 Ann?

9 MS. NOTTHOFF: I also wanted also to
10 make a procedural suggestion. It seems to me a lot of
11 the -- as we move into some of these more
12 controversial areas it's very helpful to hear from the
13 public, and we want to foster as much public
14 involvement and get the wisdom of their views as much
15 as possible in trying to come to grips with some of
16 these controversial issues. I think this morning it
17 was very instructive to have the discussion on
18 water-use efficiency.

19 And I -- maybe one way to facilitate that
20 would be to organize our day-long meetings in that,
21 you know, we can try and scope out what are the
22 potentially controversial things and have them on
23 either in the morning or in the afternoon so that the
24 public doesn't have to be here from ten to five.

25 CHAIRMAN MADIGAN: Why are they so good

216

1 that they don't have to be here and we have to sit
2 here the whole damn day?

3 (Laughter.)

4 MS. NOTTHOFF: You know, if we know
5 that there's something on the agenda that there has
6 been a lot of expressed concern about, that we try and
7 confine that to either one, the morning or the
8 afternoon, to help facilitate that public involvement.

9 CHAIRMAN MADIGAN: Okay.

10 All right. Thank you all very much,
11 you've been terrific. We are adjourned.

12 (The proceedings adjourned at 4:50 p.m.)
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